

In the Matter Of:
UNITED STATES vs STATE OF GEORGIA

NO. 1:16-cv-03088-ELR

BRIAN D. DOWD

June 23, 2022



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UNITED STATES vs STATE OF GEORGIA

June 23, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STATE OF GEORGIA,
Defendants.
- - - - -

) CIVIL ACTION
) NO. 1:16-cv-03088-ELR
)
)
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)
)

VIDEOTAPE DEPOSITION OF
BRIAN D. DOWD

Thursday, June 23, 2022, 9:03 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

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VICTORIA LILL, ESQUIRE
ANDREA HAMILTON, ESQUIRE
LAURA TAYLOE, ESQUIRE
ALISON EWERS, PARALEGAL
MEGAN ERICKSON, PARALEGAL

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ALSO PRESENT:

PAUL NORMAN, ESQUIRE DCH General Counsel

TARA DICKERSON, ESQUIRE (Via Zoom)
DCH Deputy General Counsel

JASON SILLING, VIDEOGRAPHER

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1 THE VIDEOGRAPHER: This is the video
2 deposition of Brian Dowd, taken in the matter
3 of the United States of America versus the
4 State of Georgia.

5 Today's date is June 23rd, 2022.

6 The time on the record is 9:03.

7 My name is Jason Silling. I'm the
8 videographer. The court reporter is Wanda
9 Robinson.

10 Counsel, please introduce yourselves,
11 after which the court reporter will swear in
12 the witness.

13 MR. HOLKINS: Patrick Holkins for the
14 United States.

15 MS. COHEN: Fran Cohen for the United
16 States.

17 MR. PICO PRATS: Javier Pico Prats for the
18 State of Georgia.

19 MR. NORMAN: Paul Norman, DCH.

20 - - - - -

21 BRIAN D. DOWD,
22 being duly sworn, was examined and testified as
23 follows:

24 - - - - -
25

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1 EXAMINATION

2 BY MR. HOLKINS:

3 Q Good morning, Mr. Dowd.

4 A Good morning.

5 Q Could you please spell your name for the
6 record, please.

7 A Sure. Brian Dowd, B-R-I-A-N, D-O-W-D.

8 Q So I'm going to walk through some
9 instructions before we get into questions. We're
10 going to go about 90 minutes at a time, then we'll
11 take a break. If you need to take a break before
12 that point, just let me know and we can.

13 The one request I have is that if a
14 question is pending that you answer the question
15 before we take a break.

16 MR. HOLKINS: That goes for counsel as
17 well. If you need to take a break at any
18 point, please let me know.

19 BY MR. HOLKINS:

20 Q As you have observed, the deposition is
21 being recorded. We have a stenographer. We have a
22 videographer as well. For clarity of the record, it
23 would be helpful if you let me finish my question
24 before you start your answer.

25 Also, please avoid uh-huh or uh-uh, and

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1 say yes or no.

2 Is that all right?

3 A Yes.

4 Q I think we're now going to show the first
5 exhibit of the day

6 MR. HOLKINS: I see someone else has
7 joined.

8 THE WITNESS: Alison but she left.

9 MR. HOLKINS: I'm sorry.

10 THE WITNESS: It was Alison Granier but
11 she left.

12 MR. HOLKINS: Who is that?

13 THE WITNESS: I don't know. Nobody I
14 know.

15 MR. HOLKINS: We'll figure that out.

16 MS. COHEN: Not yet.

17 MR. HOLKINS: So give me one second and
18 I'll pull up the first exhibit of the day.

19 So, for the record, this is the notice of
20 deposition for Brian Dowd, served on the State
21 of Georgia in this matter.

22 (WHEREUPON, Plaintiff's Exhibit-156 was
23 marked for identification.)

24 BY MR. HOLKINS:

25 Q I'm going to give you control of the

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1 document so you can review it.

2 A Okay.

3 Q Give me one second.

4 You should have control.

5 A I have to click on it, right? I may have
6 control of it now. No, I don't.

7 Q Let's try this again.

8 A Okay.

9 Q You should have control now if you click
10 on it.

11 A Yeah, I do.

12 Q Okay. Just let me know when you've
13 finished reviewing it.

14 (Witness reviews exhibit.)

15 A This is just the notice of deposition,
16 right?

17 Q Have you seen this document before?

18 A Yes.

19 Q When did you see it?

20 A A few days ago. I don't remember of which
21 the days but a couple of days ago.

22 Q And who showed you this document?

23 A Paul sent it to me, I believe. Yeah.

24 Q Mr. Dowd, before today, had you heard
25 about this case?

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1 A Yes.

2 Q When did you first hear about this case?

3 A I don't know an exact date. A couple
4 years ago was the first time I heard about it, or --

5 Q What's your understanding --

6 A I want to say it was right before the
7 pandemic.

8 Q Okay. So that would have been in 2019,
9 early 2020?

10 A Yes.

11 Q What is your understanding of what this
12 case is about?

13 A GNETS. About the validity of the GNETS
14 schools.

15 Q Anything else?

16 A No.

17 Q Mr. Dowd, are you aware that the United
18 States is taking depositions of other current or
19 former state officials --

20 A Yes.

21 Q -- in connection with this matter?

22 A Yes. I'm sorry.

23 Q Did you review the transcripts of any of
24 those depositions in preparation for this
25 deposition?

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1 A No.

2 Q Mr. Dowd, do you understand that your
3 testimony today is under oath?

4 A Yes.

5 Q Do you understand that being under oath
6 means that you have an obligation to tell the truth?

7 A Yes.

8 Q Is there any reason at all why you cannot
9 testify accurately and truthfully today?

10 A No.

11 Q Are you taking any medication or older
12 substance that would interfere with your ability to
13 answer all of my questions fully and truthfully
14 today?

15 A No.

16 Q Have you ever been deposed before?

17 A Yes.

18 Q How many times?

19 A Oh, more than five, less than 10.

20 Q In any of those depositions were you
21 appearing in your capacity as an employee of the
22 State of Georgia?

23 A All of them.

24 Q When was the most recent time that you
25 were deposed?

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1 A Probably seven or eight years ago.

2 Q And what was the subject of the
3 deposition?

4 A It was an independent care waiver program
5 member, and the services that member was going to
6 receive.

7 Q Were all of the depositions that you have
8 participated in the past about a similar topic?

9 A No.

10 Q Could you describe the subject of other
11 depositions that you've participated in?

12 A Medical necessity related to the Georgia
13 pediatric program, criminal cases having to do with
14 doctors, eligibility issues having to do with
15 pregnant woman Medicaid.

16 I can't remember all of them. It's been
17 24 years.

18 Q The deposition you described -- or perhaps
19 there were multiple depositions related to medical
20 necessity --

21 MR. HOLKINS: Let me ask the question.

22 Q Did you have more than one question
23 relating to the issue of medical necessity?

24 A Hum, I think medical necessity came up in
25 more than one deposition.

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1 Q Okay. And were you assessing or were you
2 asked to opine on medical necessity with respect to
3 children's behavioral health services in any of
4 these depositions?

5 A No.

6 Q Have you ever been a plaintiff or
7 defendant in a lawsuit?

8 A No -- well, I mean I've been sued as a
9 state employee.

10 Q Okay.

11 A In a personal capacity, that got dismissed
12 in federal court recently.

13 Q Could you describe that matter?

14 A Yes. It was an ICWP case about two
15 applicants receiving services timely.

16 Q What does ICWP stand for?

17 A The independent care waiver program. It's
18 one of our 191(c) home and community-based waivers
19 in the State of Georgia.

20 Q What is the target population for that
21 waiver program?

22 A 21 to 64, severely medically fragile,
23 and/or traumatic brain injury.

24 Q Is that the only time you have been
25 personally sued in your official capacity?

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1 A That I remember, yes.

2 Q I'm going to be using some acronyms
3 throughout the day. I'm going to run through them
4 now and explain what I understand them to mean to
5 make sure we're on the same page.

6 Is that all right?

7 A Yes.

8 Q When I refer to "DBHDD," will you
9 understand I'm referring to the Georgia Department
10 of Behavioral Health and Developmental Disabilities?

11 A Yes.

12 Q When I refer to "DCH," will you understand
13 I'm referring to the Georgia Department of Community
14 Health?

15 A Yes.

16 Q When I refer to the "Georgia DOE," or
17 "DOE," will you understand that I am referring to
18 the Georgia Department of Education?

19 A Yes.

20 Q When I reference "CMO," will you
21 understand that I am referring to Care Management
22 Organizations?

23 A Yes.

24 Q When I say "SED," will you understand that
25 I'm referring to Serious Emotional Disturbances?

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1 A Yes.

2 Q I may use the term "general education
3 setting" today. If I do, I am referring to public
4 schools in Georgia where children with SED and other
5 behavioral health conditions receive instruction and
6 services alongside children who do not have
7 disabilities. Do you understand?

8 A Yes.

9 Q When I refer to "GNETS," will you
10 understand that I am referring to the Georgia
11 Network for Educational and Therapeutic Support?

12 A Yes.

13 Q When I refer to "CYF," or "OCYF," do you
14 understand that I am referring to the Office of
15 Children, Young Adults and Families at DBHDD?

16 A Yes.

17 Q Will you understand that "COE" is in
18 reference to the Georgia State University Center of
19 Excellence?

20 A Yes.

21 Q And likewise, will you understand that
22 "CSB" is a reference to Community Service Boards in
23 Georgia?

24 A Yes.

25 Q Will you understand that "EPSDT" means

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1 early periodic screening diagnosis and treatment?

2 A Yes.

3 Q Will you understand that "CISS" is a
4 reference to Children's Intervention School
5 Services?

6 A Yes.

7 Q Will you understand that CIS is a
8 reference to Children's Intervention Services?

9 A Yes.

10 Q "CBAY" means community-based alternatives
11 for youth, correct?

12 A Correct.

13 Q "GAMMIS" is a reference to Georgia
14 Medicaid Management Information System, correct?

15 A Correct.

16 Q "CHIP" means Children's Health Insurance
17 Program, correct?

18 A Correct.

19 Q And "PeachCare" will be a shorthand for
20 PeachCare for Kids, of the CHIP's state program,
21 correct?

22 A Correct.

23 Q I will finally, if I refer to "CMS," will
24 you understand that means the Centers for Medicare
25 and Medicaid Services?

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1 A Yes.

2 Q Mr. Dowd, do you have a college degree?

3 A Yes.

4 Q From where?

5 A Georgia State University.

6 Q In what field did you receive the degree?

7 A Anthropology.

8 Q Do you have a professional degree?

9 A No.

10 Q Do you maintain any professional licenses?

11 A No.

12 Q What is your current job title?

13 A Deputy Executive Director of Medical

14 Assistance Plans over Policy, Operations and

15 Compliance.

16 Q I want to make sure I got that right for
17 the transcript.

18 Deputy Executive Director of Medical
19 Assistance Plans for -- Over Policy, Operations and
20 Compliance; is that correct?

21 A Correct.

22 Q When did you assume this position?

23 A Well, we went through a reorg, and they
24 reclassified my title pre-pandemic? I don't know.
25 2018 probably.

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1 I'm sorry, I don't know that off the top
2 of my head.

3 Q That's fine.

4 Who do you report to in your current
5 position?

6 A Lynnette Rhodes.

7 Q What is her title?

8 A Executive director of Medical Assistance
9 Plans.

10 Q And since you assumed this position in,
11 2018, whereabouts, have you always reported to
12 Lynnette Rhodes?

13 A Yes.

14 Q Do you supervise anyone in your current
15 position?

16 A Yes.

17 Q Who do you supervise?

18 A I supervise Valerie Harrell, who is an
19 administrative assistant. I supervise Lavina Luca,
20 who is our Medicaid coordinator. I supervise
21 Melanie Wilson, who is over auditing and compliance.

22 There's a vacant position that is over
23 policy. That is one that I directly supervise.

24 I supervise Maya Carter, who is over
25 system integration.

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1 Q Just for the record, I think one of the
2 individuals you identified, her name is Lavina; is
3 that right?

4 A Lavina Luca, yeah.

5 Q Okay. We got it.

6 I want to ask you just a few questions
7 about the work of the individuals you supervise.

8 A Sure.

9 Q I believe you identified one individual
10 you supervise who -- whose role you described as
11 auditing compliance; is that correct?

12 A Correct.

13 Q What does that entail?

14 A Her unit is responsible for state audits
15 that come in, coordinating any state audits we have,
16 which we have multiple state audits in a year on
17 different categories of service.

18 She's also responsible for the federal
19 payment error rate measurement audit, which we're
20 currently going through, which is the federal
21 paramount from CMS, and she's responsible for any
22 integration we have at HCSB settings rule to make
23 sure that the service we deliver in the community
24 are actually community based. So her unit does that
25 auditing.

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1 She also oversees electronic visit
2 verification, which is a federal mandate where we
3 have certain services where folks have to clock-in
4 and clock-out to ensure they're delivering services.

5 So all those auditing functions.

6 She also has the ownership for the autism
7 spectrum disorder therapy manual.

8 Q Thank you very much.

9 HCBS stands for home community-based
10 services, correct?

11 A Correct.

12 Q Could you describe in a little bit more
13 detail what the integration work entails with
14 respect to the HCBS rule?

15 A Yes. The HCBS rule says that related to
16 1915(c) home and community-based waivers, right,
17 that they have to be delivered in a community
18 setting because that's what they are, for those
19 waivers.

20 So there's certain aspects that you have
21 to ensure, like that the services are not delivered
22 on the grounds of an institution, adjacent to an
23 institution, or in a setting that would otherwise
24 appear to be an institution.

25 So we have to ensure that those -- where

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1 we deliver the waiver services, they're not in any
2 of those settings.

3 Q And what specific efforts does your office
4 undertake to ensure that?

5 A If there is any report in our auditing or
6 our surveying of providers and members, this unit
7 would be the unit that would be responsible for
8 following up with those providers to ensure that
9 they are in compliance and taking action if they're
10 not.

11 Q So is this surveying of providers and
12 members happening annually?

13 A I'm not sure if it's annually or
14 bi-annually, but it's specific to the home and
15 community-based waivers.

16 Q Okay. You mentioned also state audits.
17 Could you describe what those are?

18 A Yeah. There's frequently -- we have a
19 Department of Audits, and they have us look at
20 different aspects. It's an interstate agency that
21 will come in and look at a subject, or it may even
22 be the federal government that comes in and looks at
23 a subject, but it's mainly the State auditors.

24 They may look at adult day health, right.
25 They say we want to look at if adult day health is

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1 being performed according to policy, and so they
2 come in and audit the providers, and that takes some
3 coordination from our office.

4 Q Have there been any state audits of
5 Medicaid services for children with behavioral
6 health conditions in the last year?

7 A Not that I'm aware of.

8 Q In the last five years?

9 A Not that I'm aware of. Not that came
10 through my office, let me say that.

11 Q Would they come through a different
12 office?

13 A They could go through the Office of the
14 Inspector General.

15 Q If there were an audit of community-based
16 Medicaid reimbursable behavioral health services
17 being performed by the State, would the individual
18 you supervise be aware of that?

19 A Yes.

20 Q And what was her name again?

21 A Melanie Wilson.

22 Q Maya Carter's role, you said, relates to
23 state integration; is that correct?

24 A System integration.

25 Q System integration. I'm sorry, I can't

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1 read my own writing.

2 Could you describe to me what that
3 entails?

4 A Yes. She works with GAMMIS and our IT
5 people and our policy people to make sure that
6 changes to the system happen appropriately.

7 Q Would that include changes to HCSB
8 policies that are published through GAMMIS?

9 A Yes.

10 Q Before we dive more deeply into your
11 current role and responsibilities, I'd just like to
12 ask you about positions you held prior to this one
13 at DCH.

14 Did you have any other jobs at DCH beyond
15 the current one?

16 A Yes.

17 Q And I know it seems like this goes back --
18 is it 20 years you've been with --

19 A I've worked for the state for 24 years.

20 Q Has that all been with DCH?

21 A Yes.

22 Q What other state entities have you worked
23 with?

24 A I think they are Department of Human
25 Services, specifically the Division of Family and

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1 Children Services, and the Department of Behavioral
2 Health and Developmental Disabilities.

3 Q Could you identify first the roles that
4 you had with DBHDD?

5 A Yes. I was -- I can't remember my title.
6 It was like Medicaid liaison maybe, something like
7 that, with DBHDD, and then I was briefly, for about
8 three months, the community mental health budget
9 manager.

10 Q What was your work --

11 MR. HOLKINS: Let me try again.

12 BY MR. HOLKINS:

13 Q What did your work entail as community
14 mental health manager at DBHDD?

15 A Medicare coordination with DCH.

16 Q Were you working directly with enrolled
17 Medicaid providers in that role?

18 A Yes.

19 Q And what did that entail?

20 A Just answering questions, clarifying
21 policy related to the community behavioral health
22 package.

23 Q Would that include questions about
24 reimbursement procedures?

25 A It could. If by -- I don't know what you

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1 mean by reimbursement procedures. So if you could
2 clarify that, that would be helpful.

3 Q Sure. I'm referring to the process of
4 receiving reimbursement for Medicaid claims for
5 community behavioral health services for children.

6 A Yes.

7 Q You would receive questions about that
8 from providers and respond to them?

9 A Yes.

10 Q Do you know if anyone is currently in that
11 role at DBHDD, the role of community behavioral
12 health budget manager?

13 A I don't know.

14 Q Is it your understanding that Wendy
15 Tiegreen is currently in the role of DBHDD liaison
16 to DCH?

17 A I, I don't know Wendy's title, but she
18 acts in that capacity.

19 Q Is there anyone else at DBHDD who you
20 would consider a liaison to DCH currently?

21 A Yes. Ashleigh Caseman.

22 Q Ashleigh Caseman?

23 A Yes.

24 Q Who's that?

25 A She's the Medicaid liaison for the IDD

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1 waivers now in comp.

2 Q I think you mentioned also that you worked
3 for the Division of Family Services; is that
4 correct?

5 A Division of Family and Children Services.

6 Q Thank you.

7 A Yes.

8 Q What was your role at the Division of
9 Family and Children Services?

10 A There were several. Aged, blind, and
11 disabled case manager, county trainer for DeKalb
12 County.

13 Aged, blind and disabled case manager.
14 Aged, blind and disabled supervisor, so the county
15 trainer for DeKalb County, and I was also a record
16 reader for what was then food stamps, which is now
17 SNAP.

18 Q Could you describe what your work as
19 county trainer for DeKalb County entailed?

20 A Yes. Trained on all aspects of Medicaid
21 eligibility, food stamp eligibility, TANF
22 eligibility.

23 Trained on customer service, trained on
24 county operations, trained on -- we had a utility
25 assistance program. We had a food bank.

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1 Trained on all the aspects of the Division
2 of Family and Children Services that related to
3 eligibility, not Child Welfare.

4 Q Who were you providing this training to?

5 A Staff.

6 Q Of the County?

7 A Yes.

8 Q Did you provide any training in that
9 capacity to staff of any GNETS program?

10 A No.

11 Q When did you first join DCH?

12 A I honestly don't remember the year. I
13 went from DeKalb County DFCS to a policy writer at
14 the State office for DFCS.

15 Then I became the DFCS Medicaid unit
16 manager, and from there I became the director of
17 eligibility at DCH, and then that position was
18 reorganized to deputy Medicaid director over
19 eligibility.

20 Then I left DCH to go work for Health
21 Management Associates, a private consulting firm,
22 for a little more than a year. Then I came back to
23 DBHDD in the two roles that I previously described.
24 Then I came back to DCH about 10 years ago.

25 Q Let's just go back to the role that you

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1 had as director of eligibility.

2 What did that role entail?

3 A At DCH?

4 Q Correct.

5 A I was over -- eligibility policy related
6 to how individuals become eligible for Medicaid. I
7 was over the PeachCare for Kids program at the time,
8 and I was over the third-party liability unit.

9 Q At that time --

10 A And MEQC, which is Medicaid eligibility
11 quality control.

12 Q So as part of your duties in that role,
13 director of eligibility at DCH, were you monitoring
14 enrollment in the PeachCare program?

15 A Yes.

16 Q Were you also monitoring enrollment in
17 Medicaid fraud, specific to kids?

18 A Not that I remember. I mean I'm sure
19 there were reports, but it wasn't a focus. It was
20 with PeachCare for Kids because back then there was
21 a cap on enrollment, and it was a big issue.

22 Q Why was it an issue?

23 A Because people wanted more kids on the
24 program.

25 Q And did DCH take any action to address

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1 that concern?

2 A It required legislative action.

3 Q Has that legislative action occurred?

4 A Yes.

5 Q Are there currently CAPs on enrollment --

6 A No.

7 Q -- on PeachCare for Kids?

8 A No.

9 Q In your capacity as director of
10 eligibility at DCH, did you lead any initiatives to
11 expand enrollment in PeachCare for Kids?

12 A No.

13 Q Did you lead any initiatives in that
14 capacity to expand enrollment in Medicaid
15 specifically for children?

16 A I can't remember. I feel like there was
17 -- I mean we're always working on improving system
18 operations and everything else, but I can't, I can't
19 remember. It was 15 years ago.

20 Q Could you briefly describe the work that
21 you did during the year or so when you were outside
22 of state service and working for health management
23 associates?

24 A Oh, yeah. It was a bunch of different
25 things.

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1 There was -- I rewrote the targeted case
2 management program for the District of Columbia, for
3 foster children.

4 I worked on with Voices for Georgia's
5 Children on some express lane eligibility policy
6 papers.

7 Wow. I did a nonemergency transportation
8 national survey.

9 I worked with the Kaiser Family Foundation
10 to gather data, along with Esther Reagan, who at the
11 time was over that.

12 I'm sure there's a bunch of other things.
13 That's all I remember off the top of my head.

14 Q Thank you. Let me follow up on a couple
15 of those items.

16 Could you describe what the express lane
17 eligibility policy paper was?

18 A Yes. So there's an option within Medicaid
19 to allow for express lane eligibility for members,
20 which is using other eligibility information, like
21 TANF and SNAP, in order to meet the qualifications
22 for Medicaid.

23 At the time we didn't do that and Voices
24 for Georgia's Children had hired me in my capacity
25 with HMA to look into what it would take for the

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1 State of Georgia to do that and what the benefits
2 would be.

3 Q HMA means?

4 A Health Management Associates. They're a
5 private consulting firm.

6 Q Thank you.

7 You also referenced working on data
8 collection, I believe, with the Kaiser Foundation;
9 is that correct?

10 A Correct.

11 Q What data were you gathering?

12 A So Kaiser Family Foundation has a website
13 where they have all aspects of information related
14 to every state's Medicaid eligibility rules. So
15 that was the data we were collecting. Like what the
16 eligibility rules were, how many people they had on,
17 if they had any changes, that sort of thing.

18 Q Were you doing this for all states or just
19 --

20 A Yes.

21 Q Yes?

22 A Yes.

23 Q All states.

24 What position did you hold at DCH prior to
25 your current position?

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1 A Deputy -- I think it was deputy -- I think
2 back then we were deputy Medicaid directors.

3 Q Were your duties in that role different
4 from your duties now?

5 A Yes. So back then I had -- I did not have
6 medical policy, which is the policy manuals over
7 most of the medical services, and I didn't have the
8 eligibility policy.

9 I had the home- and community-based
10 waivers that were under me, the Georgia pediatric
11 program.

12 And I think that was it.

13 Q So is it fair to say your duties have
14 expanded since you took on this new role?

15 A It's expanded since the reorg, yes.

16 Q And when was the reorg?

17 A I don't remember. Before the PHE.

18 Q The Public Health Emergency?

19 A Yeah, before the Public Health Emergency.

20 Q Do you have any duties currently
21 specifically with respect to Care Management
22 Organizations?

23 A No. Care Management Organizations are not
24 under my umbrella. They are under different deputy
25 executive directors.

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1 Q Which deputy executive directors would
2 that be?

3 A It's vacant currently. It was Catherine
4 Ivy. She has since retired.

5 Q When did Ms. Ivy retire?

6 A Two months ago. Maybe. I can't remember.
7 Two months ago, probably.

8 Q There's not an interim in her place --

9 A No.

10 Q -- currently?

11 Do you have any duties in your current
12 role with respect to Medicaid State Plan amendments?

13 A Yes. So Melanie Wilson, one of the things
14 she also does is keeps the library of state plan
15 amendments.

16 I may help draft state plan amendments if
17 they have to do with medical policy or any of the
18 services that I know and oversee.

19 I don't submit them, but I help draft
20 them.

21 Q And what are the services that you oversee
22 where you would help draft related Medicaid State
23 Plan amendments?

24 A Anything related to member eligibility;
25 anything related to medical policy, which is

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1 physician services, hospital services.

2 There's so many. X-ray, psychological
3 service, which is not community behavioral health.
4 There's a difference.

5 So psychological services. X-ray
6 emergency transportation.

7 I can't remember them all but there's
8 quite a few.

9 Q So if I'm understanding your testimony
10 correctly, you would not review state plan
11 amendments with respect to community behavioral
12 health services?

13 A I may be asked to look at them but they're
14 not directly in my line. That was in Catherine
15 Ivy's section. There was a program specialist
16 there, who is Jamie Cremer, I believe, and she is
17 over the policy manual for community behavioral
18 health, and it was supervised by Catherine Ivy.

19 Q Were you in fact ever asked to review a
20 draft Medicaid State Plan amendment related to
21 community-based health services?

22 A When I worked at DBHDD, yes.

23 Q Can you remind me in what capacity at
24 DBHDD you would have been asked to review state plan
25 amendments relating to community behavioral health

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1 services?

2 A Yes. When they were -- when there was
3 some work being done to add services related to the
4 Department of Justice settlement.

5 Q And is that the settlement related to
6 adults mental health services?

7 A Correct.

8 Q And what input specifically did you
9 provide on that state plan amendment?

10 A I can't remember what I specifically
11 provided. It was a lot of years ago.

12 Q Give me a second. I'm going to pull up
13 the next exhibit.

14 A Sure.

15 MR. HOLKINS: So I've just published what
16 we're introducing as Exhibit 157.

17 For the record, this is GA00381679.

18 This exhibit will have multiple parts,
19 both the email and one of the attachments.

20 (WHEREUPON, Plaintiff's Exhibit-157 was
21 marked for identification.)

22 BY MR. HOLKINS:

23 Q I'm going to give you control of this
24 document, Mr. Dowd. Please let me know when you
25 finish reviewing it.

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1 You should have control.

2 (Witness reviews exhibit.)

3 A Okay, I reviewed it.

4 Q I'm going to take control of the document
5 back.

6 So this is an email from Linda McCall,
7 dated November 6, 2017, to you. The subject is:
8 "Forward Behavioral Health SPA."

9 Is that correct?

10 A Correct.

11 Q And SPA stands for state plan amendment?

12 A Correct.

13 Q Who is Linda McCall?

14 A She was the former -- I don't know what
15 her title was, but she was the former person who was
16 over the behavioral health manual for DCH.

17 Q Who is currently over the behavioral
18 health manual for DCH?

19 A Jamie Cremer.

20 Q So I'm now going to pivot over to the
21 attachment, one of the attachments to this email.

22 For the record, this is GA00381680. It's
23 being introduced as Part 2 of this Exhibit 157.

24 This is a long document. There's no need
25 for you to review it all, but I will give you a

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1 chance to take a look at it. Give me one second and
2 I'll give you control.

3 Do you have access? Are you able to --

4 A Yeah. I think I just got it. Yeah.

5 (Witness reviews exhibit.)

6 A Yes. Okay. I've reviewed it.

7 Q So this is an approved state plan
8 amendment relating to behavioral health services in
9 the State of Georgia, correct?

10 A Correct.

11 Q What was your role, if any, with respect
12 to the development of this waiver?

13 A None that I remember.

14 Q And why -- what's your understanding of
15 why Linda McCall was forwarding this to you?

16 A I get three to 500 emails a day. People
17 forward me all kinds of stuff, for my knowledge.

18 Q Did you review this when you received it?

19 A I don't remember. It was 2018. I don't
20 remember to what extent I reviewed it and looked at
21 it.

22 Q Do you know sitting here today what's in
23 this waiver?

24 A No. I would have to review it and see
25 what the actual changes were. I have no idea.

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1 Q I'm going to stop sharing this document.

2 What are your duties currently with
3 respect to Medicaid waivers?

4 A 1915(c) waivers? 1915 waivers? What
5 language?

6 Q It's a broad question intended to capture
7 all of that. So let's start with 1915(c).

8 A I would advise the individuals who are
9 doing amendments on 1915(c) waivers, whether it be
10 372 reports, which are accounting reports for those.
11 Lavina Luca has been working on those, which are our
12 fiscal reports we send in for waiver services.

13 Catherine Ivy, before she left, was
14 working with Lavina Luca on waiver renewal
15 documents. They expire every five years.

16 So she would -- she's been helping to
17 draft those. So I might answer questions or go over
18 what should be done or clarify information in the
19 1915(c) waivers.

20 I used to be over the 1915(c) waivers. So
21 people come and ask me questions about the history
22 of the 1915(c) waivers and what certain things mean
23 and what past negotiation was with CMS.

24 I sometimes am the person who submits the
25 waivers because I am the person who has the super

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1 access to the CMS portal to submit those waivers.
2 So I'm the person who takes people on, which is the
3 long history, takes people on and takes people off,
4 and I can also do everything in the portal to
5 communicate with CMS.

6 Q Do you have a counterpart who you interact
7 with with CMS?

8 A Yes. Right now it's Shantae Shaw. She's
9 over the waivers. She's out of San Francisco.

10 Q The last name is Shaw?

11 A Yes.

12 Q What were the other waiver types that you
13 have duties with respect to?

14 A So there's 1115 waivers, which are
15 demonstration waivers.

16 I'm trying to think of any other waivers
17 we have. We don't have any B's.

18 So we did have an 1115 waiver that we have
19 since -- has -- is not moving forward, which was
20 Pathways to Coverage. So people would ask me
21 questions related to that waiver, and I may
22 participate in those planning meetings as well.

23 Likewise, I helped develop, along with
24 Lynnette, we were the two point people for the 1115
25 waiver that expanded postpartum care for women to

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1 six months recently, and now we're expanding it to a
2 year as part of a state plan operation, but we
3 previously before the state Plan option expanded it
4 to six months.

5 Q Could you describe what the Pathways to
6 Coverage 1115 waiver was intended to achieve?

7 A It was intended to -- intended to provide
8 a route for people doing community activities or
9 community engagement to Medicaid coverage, and then
10 eventually to the exchange for coverage.

11 Q Does that include children and families?

12 A No.

13 Q What was the target population?

14 A Working adults.

15 Q Are you working on any 1115 waiver
16 applications currently?

17 A Not currently, no.

18 MR. HOLKINS: Just one second.

19 Renee, could you mute yourself, please.

20 Thank you.

21 BY MR. HOLKINS:

22 Q Do you know whether DCH is currently
23 developing any waivers with respect to Children's
24 Behavioral Health services?

25 A Not that I'm aware of.

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1 Q Do you have any responsibilities with
2 respect to designing or developing new Medicaid
3 services?

4 A Yes.

5 Q Could you describe those responsibilities?

6 A It depends on if the legislature passes
7 something or there's a -- leadership passes
8 something, and I will work in the development of, if
9 it's a state plan amendment, in developing the
10 policy manual or whatever else.

11 Currently we are developing -- and it has
12 not been approved by CMS yet -- did you ask
13 Children's Behavioral Health services?

14 Q I'm asking broadly to Medicaid services.

15 A Yeah. So, yes, I do.

16 Q And what is the service -- I believe you
17 were about to describe that you're working on.

18 A Behavioral support services.

19 Q Intended for?

20 A Children that have behavioral issues to
21 have in-home services or community-based services,
22 to help with skill building, activities, daily
23 support, that sort of thing.

24 Q Is this a state plan amendment?

25 A Yes.

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1 Q If I'm understanding correctly, DCH has
2 submitted the application for the state plan
3 amendment to CMS?

4 A No, that's not correct.

5 Q What is the current status?

6 A It's pending with our DCH Board.

7 Q Could you just walk me through the
8 process, from genesis of a draft state plan
9 amendment to approval of the amendment?

10 A Sure. So at first you have to seek public
11 comment. The Department of Community Health does
12 that via the Board process. So you have an initial
13 introduction to the DCH Board. It is published. It
14 is made publicly available. You have a public
15 hearing.

16 Members can also submit comments via fax
17 or email to the Department during the open public
18 comment time.

19 We gather all that information. We make
20 any changes that we should make based on that public
21 comment. It then goes to the Board for final
22 adoption.

23 Once it is finally adopted by the Board
24 and we have satisfied the public comment
25 responsibility, we then submit our state plan

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1 amendment to CMS. CMS has 90 days to review the
2 state plan amendment. They can give us an informal
3 request for additional information that keeps it on
4 the clock, but just asks us questions. They may ask
5 to meet with us.

6 Frequently now they ask to meet with us to
7 discuss the SPA immediately. They could take the
8 SPA off of the clock and give us a request for
9 additional information, which is an RAI, which are
10 official questions that have to be responded to.

11 And when we return those questions, it
12 goes on the clock. There's no limit to the number
13 of RAIs that CMS can do. So even though there's a
14 90-day clock, it may take a lot longer than 90 days
15 to have all the questions approved. But at the end
16 of that 90-day clock, a decision has to be made
17 whether CMS is going to approve the state plan or
18 reject the state plan.

19 Q Thank you.

20 Does the DCH Board have final authority
21 over whether a state plan amendment is submitted to
22 CMS?

23 A I don't know.

24 Q What is the role of the DCH Board?

25 A They approve our motions to go forward.

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1 Q Are you aware of another level of approval
2 before the proposal is submitted to CMS?

3 A No.

4 Q Who is on the DCH Board, do you know?

5 A Do I know all their names?

6 Q How many it is -- how many members are
7 there on the DCH Board?

8 A I don't know how many members there are.

9 Q Do you know whether the members of the DCH
10 Board are appointed by the Governor?

11 A I don't know. I believe so but I don't
12 know for sure.

13 Q Have you ever participated in discussions
14 correctly with the DCH Board?

15 A Yes. I've presented things to the DCH
16 Board. I've had questions asked back and forth from
17 the DCH board about what I've presented, yes.

18 Q Did you present to the DCH Board
19 specifically in connection with the state plan
20 amendment you were just describing?

21 A Behavioral supports? Yes.

22 Q When did that occur?

23 A Last month.

24 Q Is there a public record of the
25 presentation or --

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1 A It's publicly available online on our
2 website. Just Google DCH Board and it's right
3 there.

4 Q Would that include the -- any presentation
5 materials you used?

6 A And the presentation. It's video.

7 Q I just want to make sure that I understand
8 the services that would be added through the state
9 plan amendment.

10 Could you expand on what would be included
11 within behavioral supports?

12 A Sure. It's in-home or community supports,
13 and this is outlined in the state plan document that
14 you can review online.

15 It's in-home or community behavioral
16 supports for individuals with identified behavioral
17 support means. So there may be a behavioral support
18 aid that goes into the home and helps an individual
19 who has a child with, let's say, autism, and that
20 child has elopement behavior, or that child has
21 aggressive behavior, or that child is resistant to
22 bathing and is 16 and 200 pounds.

23 That's, you know, a stressor on families.
24 So we're hoping to introduce that service to help
25 mitigate those issues with families.

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1 Q What led DCH to create this proposed state
2 plan amendment?

3 A Need.

4 Q And how did you -- excuse me.

5 How did DCH identify that need?

6 A Well, we, we talk to hundreds of families
7 a month and hundreds of providers a month.

8 Q Can you describe the ways in which DCH
9 interacts with, as you say, hundreds of families and
10 providers a month?

11 A They email, they call. We do tons of
12 community engagement work. I appear at lots of
13 association meetings.

14 We have different avenues for families to
15 talk to us and then just emails, phone calls and
16 everything else.

17 Q So those contacts with community providers
18 identified a need for the specific category of
19 service; is that correct?

20 A No. I would say that we have -- we were
21 aware of members' needs, and it's just been part of
22 the overall work we do at DCH, looking at system
23 improvement.

24 Q And what other ways were you aware of
25 members' needs beyond these regular communications?

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1 A We may have other agencies, whether it be
2 the Division of Family and Children Services or
3 DBHDD, express identified needs, too.

4 Q Did DBHDD express to DCH a need for this
5 state plan amendment relating to behavioral
6 supports?

7 A Not specific that I remember.

8 Q Did you consult at all with anyone at
9 DBHDD in the development of this proposed state plan
10 amendment?

11 A They were certainly involved in
12 conversations about it, absolutely.

13 Q Who at DBHDD was involved?

14 A Wendy Tiegreen, Melissa Sperbeck. I
15 remember Frank Berry before he became our
16 commissioner and was their commissioner.

17 Judy Fitzgerald, their current
18 commissioner. Monica Patel, one of their attorneys.

19 Lots of people are involved in those
20 communications. They've got 300 or so employees.

21 Q Did Dante McKay have any involvement in
22 the development of --

23 A Sure, yes, absolutely.

24 Q And what was Dante McKay's involvement?

25 A He would just have been aware and provided

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1 any input.

2 Q Is there a timeline for the Board to
3 decide on whether to approve the proposed state plan
4 amendment?

5 A Yes. For this state plan amendment are
6 you asking?

7 Q I am.

8 A Yes. It will be -- the final adoption is
9 Monday.

10 Q This coming Monday?

11 A Yes.

12 Q Just so it's clear on the record, that's
13 June 27, 2022?

14 A Correct.

15 Q Do you have any duties currently with
16 respect to setting rates for Medicaid reimbursable
17 services in Georgia?

18 A No. That's a fiscal setting. They may
19 ask me policy questions but I don't set rates.

20 Q Do you receive feedback from members or
21 provider organizations with respect to rates for
22 Medicaid reimbursable services?

23 A Yes.

24 Q Could you describe broadly the feedback
25 that you receive with respect to rates from enrolled

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1 providers?

2 A They want a rate increase.

3 Q Are there specific Children's Behavioral
4 Health services reimbursed by Medicaid that
5 providers have identified a need for rate increases?

6 A Not to me of recent, no.

7 Q And what specific services have you
8 received requests for rate increases with respect
9 to?

10 A The Georgia Pediatric Program, all of the
11 waived services, dental reimbursement rates,
12 physician services. The rates for air, ambulance,
13 the rates for ground transportation.

14 I'm thinking of the ones this month.

15 Q Would you expect requests relating to rate
16 increases specific to children's behavioral health
17 services to go to the office previously supervised
18 by Catherine Ivy?

19 A Perhaps. I don't know. They haven't come
20 to me. I don't know.

21 Q And what do you do with this information
22 regarding concerns about rates for Medicaid
23 reimbursable services once you receive the
24 information?

25 A We make note of it. We discuss it with

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1 our fiscal people.

2 Q How often are you meeting with fiscal
3 staff at DCH to discuss rate issues?

4 A As they come up, and then we have periodic
5 meetings as well.

6 Q Do you have any duties currently with
7 respect to EPSDT?

8 A I'm not -- we have a specific person who's
9 over EPSDT, and I don't supervise that individual
10 directly. Again, I may get asked questions related
11 to EPSDT from my historical knowledge but I don't
12 directly supervise the EPSDT director.

13 Q Who is the EPSDT director at DCH
14 currently?

15 A Melinda Ford Williams.

16 Q Have you ever had duties at DCH --
17 MR. HOLKINS: Let me rephrase.

18 Q Have you ever had responsibility at DCH
19 over EPSDT compliance?

20 A No.

21 Q I'm now going to ask you a series of
22 questions about your coordination with other
23 entities, including other state agencies. We'll run
24 through a list.

25 A Okay.

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1 Q Could you describe your ongoing
2 coordination with DBHDD?

3 A Yes. So we have a monthly CYA meeting,
4 children youth and adolescent meeting.

5 I receive numerous calls and emails from
6 them on a daily basis about all things related to
7 Medicaid.

8 Q Could you give some recent examples of
9 things that DBHDD is emailing you about with respect
10 to Medicaid?

11 A Everything from individual members who are
12 trying to find perhaps services or placement. Since
13 Catherine has left, I may get emails that say, hey,
14 can you send this to the appropriate people within
15 the CMOs, to broader questions about what we cover
16 in the state plan as it relates to PRTFs. There's a
17 pending PRTF rate adjustments -- sorry. Which is
18 Psychiatric Residential Treatment Facilities are
19 PRTFs.

20 And we have a rate -- we have a pending
21 SPA to increase their rates based on the 2020 cost
22 reports. So I've recently got a bunch of questions
23 about where are we with that with CMS.

24 So it's just a variety of things.

25 Q Have you received any -- have you received

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1 any emails from DBHDD recently with respect to the
2 Intensive Customized Care Coordination services?

3 A Again, I get three to 500 emails a day.
4 That's on oath and you're welcome to check.

5 I can't remember what my emails are every
6 day. I may have gotten one and you would have to
7 define what recent means.

8 Q Have you in the last year had discussions
9 with DBHDD relating to the Intensive Customized
10 Coordination Service, also known as IC3?

11 A I'm sure we have, yeah.

12 Q And what's been the focus of those
13 discussions about IC3?

14 A The only thing I can remember off the top
15 of my head is Wendy asking if there was a way we
16 could work to clarify how much IC3 services were
17 being administered by the CMOs. That's the only
18 thing I can remember off the top of my head.

19 Q And what, what action did you take in
20 response to that inquiry?

21 A To get her with the data people, who would
22 have the ability to do that, which is not me.

23 Q And who are the data people that would
24 have the ability to do that?

25 A Daphne Keit, in her unit.

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1 Q And what, what unit is Daphne in?

2 A Decisions Support Solution, I believe.

3 Our DSS unit they may have changed names but that's
4 what I remember them to be.

5 Q So it's that unit that would have access
6 to CMO data on IC3 utilization?

7 A They have access to all of our data, yes.

8 Q Including data that's reported to DCH by
9 the CMOs.

10 A Correct.

11 Q Thank you.

12 Do you interact at all with Layla
13 Fitzgerald?

14 A No. I don't know who that is.

15 Q Could you describe your ongoing
16 coordination, if any, with the Georgia Department of
17 Education?

18 A I don't have any.

19 Q Could you describe your coordination, if
20 any, with local education agencies, or LEAs?

21 A I don't have any.

22 Q I'd like to show you another exhibit
23 briefly.

24 A Sure.

25 (WHEREUPON, Plaintiff's Exhibit-158 was

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1 marked for identification.)

2 A I still have -- there you go. I notice
3 the little hand is still there.

4 Q Sir, I've just published a document that
5 I'm introducing as Exhibit 158. I note for the
6 record the Bates No. is GA00462643.

7 This is an email sent by Catherine Ivy to
8 someone named Rachel Kappel, on February 24, 2020.

9 I know you were not a recipient of this
10 email, Mr. Dowd. I'd just like to ask you some
11 questions about it, and I'll let you review the
12 chain. I'll give you control in a second.

13 You have control.

14 (Witness reviews exhibit.)

15 A I have reviewed it.

16 Q Thank you very much.

17 I want to direct you to Ms. Ivy's
18 responses to questions posed by Rachel Kappel, who
19 appears to be at the time affiliated with the Emory
20 University.

21 There are some questions on Pages 1 and 2
22 relating to coordination between DCH and local
23 education authorities.

24 Do you see where I am?

25 A Under what circumstances?

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1 Q Exactly.

2 A That one?

3 Q Yeah.

4 A Got it.

5 Q In her response, Ms. Ivy indicates that
6 she is "in contact with LEAs, school districts and
7 schools around the school nursing expansion, but
8 most interaction is with the Department of
9 Education."

10 Do you see that text?

11 A Yes.

12 Q Do you have any understanding of what Ms.
13 Ivy's coordination with LEAs was at the time?

14 A No. I mean I broadly knew she was working
15 on school nursing. I don't know any specifics of
16 what they were doing.

17 Q Further up in the document, the question
18 is posed: "When you talk to departments of mental
19 health about finance, who do you talk to most
20 often?"

21 Ms. Ivy answered: "Wendy Tiegreen or Mary
22 Price."

23 Do you see that text?

24 A Yes.

25 Q Who is Mary Price?

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1 A Mary Price is -- there's -- CFO. I don't
2 know if that's actually her title. That may be --
3 if it's not CFO, it's deputy CFO or something along
4 those lines.

5 Q Thank you. A few lines down, the question
6 is posed: "Which issues related to financing SBMH
7 are these individuals less informed about?"

8 Do you understand SBMH to be school-based
9 mental health?

10 A Yes.

11 Q Catherine Ivy answered: "Perhaps the DCH
12 relationship with LEAs generally."

13 Do you see that text?

14 A Yes.

15 Q How would you describe the relationship
16 between DCH and LEAs generally?

17 A I don't have a relationship with LEAs
18 myself.

19 Q How would you describe the relationship
20 between DCH and LEAs?

21 A I can only speak to what I do. I don't
22 know what -- she very well may have had a relation
23 with the LEAs. I do not.

24 Q Are you aware of whether any DCH staff who
25 you supervise coordinate on an ongoing basis with

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1 LEAs?

2 A None of the staff that I supervise that
3 I'm aware of coordinate with LEAs on a regular
4 basis.

5 Q Are you familiar with Regional Education
6 Service Agencies in Georgia?

7 A No.

8 Q You've never heard of the term "RESA"?

9 A No.

10 Q Is it accurate that you're not
11 coordinating on an ongoing basis with RESAs in
12 Georgia?

13 A Correct.

14 Q Let's put aside this document.

15 MS. COHEN: What was the exhibit number on
16 that? 158?

17 MR. HOLKINS: That was 158.

18 BY MR. HOLKINS:

19 Q We're going to go about another 10 minutes
20 and then we'll take a break.

21 A Okay.

22 Q Do you have any coordination
23 responsibilities in your current role with respect
24 to the Georgia Administrative Services Organization
25 Collaborative?

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1 A The Georgia Administrative Services
2 Organization Collaborative? I don't know what that
3 is.

4 Q Okay. Do you have any coordination
5 responsibilities with respect to the Georgia State
6 University Center of Excellence, or COE?

7 A I, I know of them. I have had a history
8 with them. They're located in the same building we
9 are. They may contact me if they have a question,
10 but I have no ongoing work with them on a regular
11 basis.

12 Q Do you have any ongoing coordination with
13 the Carter Center?

14 A No.

15 Q Do you have any ongoing coordination with
16 the Georgia Ombudsperson for Children?

17 A No.

18 Q You referenced Voices for Children --
19 Georgia's children, earlier in your testimony in
20 connection with the role that you had outside of
21 state service, correct?

22 A Correct.

23 Q Do you have any ongoing coordination with
24 Voices for Georgia's Children in your current
25 capacity?

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1 A Nothing regularly scheduled or planned.
2 Again, that doesn't mean people like -- if I go to
3 McDonald's, somebody is going to ask me a question
4 about Medicaid. That's my life.

5 So I can't say emphatically that the
6 answer is, you know, absolutely not. Voices may
7 have sent me an email or made a call to me, but I
8 have no regular ongoing coordination with Voices for
9 Georgia's Children.

10 Q Do you recall receiving any requests from
11 Voices for Georgia's Children in the last year?

12 A No, not specifically.

13 Q Do you have any ongoing coordination with
14 the Georgia Advocacy Office, otherwise known as GAO?

15 A Again, related to specific questions,
16 sure. They may call me or write me about individual
17 families, individual members trying to seek
18 services. We may get something from Atlanta Legal
19 Aid or GAO where they're writing me and asking about
20 certain things.

21 I have for the last several years gone and
22 done an evening class for lawyers related to GAO on
23 the basics of Medicaid and what Medicaid means and
24 educate some group of law students that are coming
25 up that are working -- planning on working in the

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1 healthcare field, and I believe that's coordinated
2 -- may be coordinated by Atlanta Legal Aid, now that
3 I think about it. One of those advocacy groups.

4 No, I don't have like a regular scheduled
5 meeting.

6 Q Do you have any coordination with GAO with
7 respect to the GNETS program in Georgia?

8 A No.

9 Q Have you received any requests from GAO
10 with respect to the GNETS program?

11 A No.

12 Q Do you coordinate at all with counterparts
13 at other states' Medicaid agencies?

14 A Yes.

15 Q About what?

16 A Depends on the topic. Like I'm on the
17 National Board for EVV, Electronic Visit
18 Verification. So there's a lot of different states
19 that are on that and I regularly talk to Florida and
20 Kentucky and Oklahoma about their EVV program,
21 because we have the same vendor.

22 When I did the PRTF Board presentation, I
23 had -- I can't remember. A couple of states called
24 me and asked about how we administer PRTFs in our
25 state.

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1 I've recently talked to -- I can't
2 remember the State, about how we administer hospice
3 services in the State and hospice lock-ins as well.

4 So it really just depends on, you know --
5 but, yeah, it's not unusual for states to contact
6 each other.

7 Q Did you consult with counterparts at other
8 states' Medicaid agencies specifically with respect
9 to the state plan amendment concerning behavioral
10 supports?

11 A No.

12 Q Have you consulted with your counterparts
13 at other states' Medicaid agencies with respect to
14 children's behavioral health services at all?

15 A Probably at some point in my history, but
16 nothing recently that I'm aware of, no.

17 Q Just so it's defined, has that happened in
18 the last year?

19 A No.

20 Q In the last five years, that you can
21 recall?

22 A Not that I can recall, unless it was
23 related to PRTF, unless it was related to
24 psychiatric residential treatment facilities, which
25 isn't community behavioral health, but it is

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1 definitely related, right. I definitely have spoken
2 to other states about how they administer and
3 operate that program.

4 Q What ongoing coordination do you have with
5 the Community Service Boards in Georgia?

6 A Nothing regularly with the CSBs. They may
7 call and ask me a question or Miss Garrett Ganoë,
8 who is over their association, may write and ask me
9 a question, a specific question. I don't have a
10 regular scheduled coordination with the CSBs.

11 Q Are you referring to Robin Garrett?

12 A Robin Garrett. Thank you.

13 Q And what kind of questions have you
14 received from Robin Garrett at the Georgia Community
15 Service Boards substation?

16 A Questions about rates, questions about --
17 there were a lot of questions when we built the ASD
18 therapy back in 2018. There were quite a few
19 questions from Robin about the CSBs taking on that
20 service.

21 Q Can we just go back. I want to revisit
22 something that you mentioned earlier in the morning.

23 You drew a distinction between
24 psychological service and community-based community
25 service. Is that accurate?

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1 A Yes. Correct.

2 Q Can you explain for the record what the
3 distinction is?

4 A Right. There's two different programs.
5 There's community-based mental health service, which
6 we call the category service 440, right. It's the
7 broad universe of services that we have in our
8 community-based -- I mean community-based behavioral
9 health services that cover everything from
10 psychosocial rehab to act, to Intensive Family
11 Intervention, to peer supports. So there's a whole
12 host of services in there.

13 In addition to that, the Department of
14 Community Health is administered, and the State
15 funds for that go to the Department of Behavioral
16 Health and Developmental Disabilities. There are
17 lead state agency in the state for behavioral health
18 things. We're the single state Medicaid agency, but
19 we work in collaboration with them.

20 In addition to that, there is a service
21 called Psychological Services, in which we enroll
22 psychologists, psychiatrists, LMFTs, LCSWs, and
23 LPCs, to provide a very distinct set of services
24 that are for assessment and counseling for children
25 21 and under.

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1 So that is another benefit that is
2 available, and, again, that's a -- those services
3 are available on our GAMMIS website. You can pull
4 the psychological services manual, it will give you
5 the practitioners that I just named and also the
6 list of services we cover.

7 It's a very distinct set of codes we
8 cover, as opposed to all these different treatment
9 modalities, which are in community behavioral
10 health.

11 Q Thank you for that explanation.

12 I just want to clarify for the record, LPC
13 means licensed professional counselors, correct?

14 A Correct.

15 Q I think you also referenced LCSW?

16 A Licensed clinical social workers.

17 Q And LMFT?

18 A Licensed family -- licensed family --

19 Q Management?

20 A Counselor. I don't know what the "T" is.

21 Q We can revisit that. That's fine.

22 A I think it's therapy counselor. I don't
23 know. But it's definitely the LMFTs.

24 Q Thank you.

25 Could you describe broadly the

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1 relationship between DCH and Community Service
2 Boards?

3 A They're an enrolled provider.

4 Q So that means that CSBs are enrolled to
5 bill for Medicaid services to DCH administers?

6 A Correct. They are what -- what we call in
7 the community behavioral health package. They are a
8 core provider.

9 Q Does psychological services relate to
10 learning issues, such as dyslexia?

11 A I mean I don't know if it does or it
12 doesn't. I would have to look at the service
13 definition.

14 It's assessment and counseling for
15 treatment.

16 Q You referenced earlier a presentation that
17 you occasionally lead, I think intended for Atlanta
18 Legal Aid about Medicaid?

19 A Correct.

20 Q I'd like to show you an exhibit that I
21 think may be related.

22 Give me one second and I'll pull it up.

23 A Okay.

24 MR. HOLKINS: I've just published what I'm
25 introducing as 159. We'll have two parts, the

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1 first is an email, and an attachment.

2 For the record, this is GA00390087, is the
3 first part of Exhibit 159.

4 (WHEREUPON, Plaintiff's Exhibit-159 was
5 marked for identification.)

6 BY MR. HOLKINS:

7 Q This appears to be an email from you dated
8 September 26, 2019, to someone named Susan Goico.
9 Is that correct?

10 A Correct.

11 Q Your email attaches a document entitled,
12 "GSU Presentation 9-12/19." Correct?

13 A Correct.

14 Q Do you need to review this document or can
15 I --

16 A No. I know it.

17 Q Thank you. I'm going to go ahead and move
18 on to the attachment.

19 A Okay.

20 Q Just give me one second.

21 This is the second document in Exhibit
22 159. For the record, the Bates number is
23 GA00390088.001.

24 This is the attachment to the email that
25 we just saw, correct, Mr. Dowd?

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1 A Correct. I mean I -- I assume it is.

2 Q I'll just note for the record that this
3 version is pulled from the native file produced by
4 the State of Georgia. It includes your speaker's
5 notes.

6 I'll scroll down to show you an example.
7 Do you see that on Page 6?

8 A Yes.

9 Q These are your notes for the presentation?

10 A Yes.

11 Q Let me first ask, is this similar to the
12 presentation you were describing and providing an
13 introduction to Medicaid?

14 A It is the presentation I was describing.
15 One of them. I've done them for several years.

16 Q And the purpose of these presentations is
17 to introduce Medicaid, correct?

18 A It's basically a Medicaid 101 for these
19 students related -- I believe this one is related
20 specifically to Olmstead and how Olmstead would
21 interact with Medicaid.

22 Q Could you expand on that, your
23 understanding of how Olmstead would interact with
24 Medicaid?

25 A Just serving individuals in the least

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1 restrictive setting as possible.

2 Q And what specific concepts relating to
3 Olmstead were you conveying through this
4 presentation?

5 A We were discussing the home- and
6 community-based waivers, the 1915(c) waivers, and we
7 may have -- I don't remember, I'd have to review the
8 actual presentation. We were probably talking about
9 all kind of things, like Georgia Pediatric Program
10 and -- without doing the -- I do a lot of
11 presentations, too, and I do a lot of 101's for
12 people. So they are usually tailored a little
13 specifically for the population and what they've
14 asked for.

15 Q Have you ever delivered a presentation
16 like this one to an audience of LEAs?

17 A No.

18 Q Have you ever delivered a presentation
19 like this one to an audience of school districts?

20 A No.

21 Q Have you ever delivered a presentation
22 like this one to an audience of GNETS program staff?

23 A No.

24 Q Has it ever been requested of you?

25 A No.

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1 Q Have you ever delivered a presentation
2 like this one targeting staff at the Georgia
3 Department of Education?

4 A No. I don't know if somebody from the
5 Department of Education has been in a presentation
6 that I've done, because I've done lots of
7 presentations for people. And often they're just --
8 I just did one six months ago that was a Facebook
9 online thing, and I do presentations where sometimes
10 there's three, 400 people on. I don't know who they
11 are.

12 Q What was that Facebook live presentation
13 about?

14 A EVV.

15 Q Which stands for?

16 A Electronic Visit Verification.

17 Q Have you ever done a presentation on
18 Medicaid for the DBHDD regional offices?

19 A When I worked with DBHDD I did one -- I
20 know I did them on eligibility, what are the
21 eligibility rules associated with Medicaid.

22 And I know I did that for the regional
23 offices. I don't think I did a presentation like
24 this one.

25 Q Have you presented on Medicaid to the

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1 regional offices of DBHDD since joining DCH?

2 A No. Not that I'm aware of. Again, I do a
3 lot of presentations, but I can't remember one off
4 the top of my head in the last 10 years that I've
5 done.

6 Q Do you have current duties with respect to
7 providing training to DCH staff?

8 A No. I mean I don't do regular trainings
9 to DCH staff and it's not part of my job
10 description.

11 Q As part of your job duties, do you provide
12 technical assistance to Community Service Boards?

13 A If requested, sure.

14 Q It's ad hoc and not regular?

15 A Correct.

16 Q Do you provide technical assistance to the
17 CMOs as part of your job?

18 A Yes. If they ask, absolutely.

19 Q And what have they asked for in terms of
20 technical assistance or training?

21 A They may ask -- a recent example, we are
22 -- the legislature increased the rates for certain
23 codes for dental codes. So they asked me what those
24 codes were and asked me whether it was primary tooth
25 or secondary teeth, in the -- your teeth are

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1 actually categorized for billing purposes for
2 different quadrants. So they were asking me if that
3 was the primary tooth or the secondary tooth.

4 They asked questions like that. When we
5 were building the ASD therapy program, because I was
6 the person who built that and wrote the policy
7 manual and everything, there were a lot of questions
8 about what that was.

9 So just those kind of general questions.

10 Q We'll talk about this more a bit later but
11 I just want to clarify, ASD stands for autism
12 spectrum disorder?

13 A Uh-hum. (Affirmative.)

14 Q Is that yes?

15 A Yes.

16 Q And you wrote DCH's manual for autism
17 spectrum disorder service; is that accurate?

18 A Therapy, yes. In collaboration with a lot
19 of people, but yes.

20 Q We will circle back to that a bit later.

21 MR. HOLKINS: I think now will be a good
22 time to take a break.

23 We can take maybe 15 minutes and try to
24 order lunch as well, if that makes sense, so we
25 can pick up where we left off and then continue

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1 to the lunch break.

2 Is that okay?

3 MR. PICO PRATS: Okay. What time do you
4 want to have lunch at?

5 MR. HOLKINS: Let's say maybe 12:15.

6 THE VIDEOGRAPHER: Off record at 10:30.

7 (A recess was taken.)

8 THE VIDEOGRAPHER: Back on record at
9 10:47.

10 BY MR. HOLKINS:

11 Q Mr. Dowd, I'd like to show you another
12 document. It's going to be Exhibit 160. Give me
13 one second and I'll pull it up.

14 (WHEREUPON, Plaintiff's Exhibit-160 was
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q For the record, this is Georgia 000005.
18 It was produced by the State of Georgia to the
19 United States in this matter.

20 Is or appears to be an organization chart
21 for the Department of Community Health as of March
22 2020

23 Please take a moment, Mr. Dowd, to review
24 the document and let me know when you finish

25 (Witness reviews exhibit.)

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1 Q I'll give you control so you can zoom in
2 if you need to?

3 A I'm good. I see it. Yeah, I've reviewed
4 it.

5 Q This an org chart for DCH as of March
6 2020?

7 A It is.

8 Q So let me first ask about changes since
9 that date to this organization chart that you're
10 aware of.

11 A Uh-hum. (Affirmative.)

12 Q One I'm imagining will be the Commissioner
13 is no longer Frank Berry, correct?

14 A Correct.

15 Q Who is the commissioner of DCH currently?

16 A Cayle Noggel.

17 Q Moving to the next line of positions in
18 the org chart, under Commissioner Berry, are you
19 aware of any changes?

20 A Yeah. This is, this is not going to be
21 easy for me.

22 Here's an easy one for me. Paul is now
23 Rachel. Right?

24 I can't do that but Paul Norman is now
25 general counsel.

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1 Blake Fulenwider was replaced by Ryan
2 Loke, who has left since.

3 So that's a vacant position as of today.

4 Q And just to jump in quickly, you're
5 referring to the chief health policy officer role?

6 A Correct.

7 Q That's vacant currently?

8 A It is currently vacant. It was replaced
9 from Blake to Ryan Loke and is now vacant.

10 Q What about the chief compliance and
11 technology officer?

12 A I believe that is now Chad Purcell.

13 Joe Hood is -- Joseph Hood is still with
14 the agency but in a senior consultant role.

15 Lisa Walker is no longer with the agency
16 either. And I'm not sure who our CFO is at the
17 moment.

18 Q Thank you.

19 Could you now turn under the chief policy
20 officer and let me know whether those individuals
21 are still in their roles?

22 A Lynnette is. Lynnette, her title is
23 changed. She's the executive director of Medical
24 Assistance Plans -- oh, it still says executive
25 director. I apologize. So that is correct.

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1 I don't know. I believe Jeff -- I don't
2 know. I don't want to speak on the other ones
3 because I don't really interact with them that much
4 directly, the director, executive directors, of
5 SHBP.

6 Q Just to be clear for the record, are you
7 referring to the state health plan -- excuse me --
8 State Health Benefit Plan, correct?

9 A Correct. And Jamie, Jamie has left, I
10 believe.

11 Q Are you referring to James Halget?

12 A Yeah. Yes.

13 Q And who is currently director of
14 healthcare analytics and reporting?

15 A I'm not sure. It may be Daphne but I'm
16 not sure.

17 Q Daphne's last name is --

18 A K-E-I-T.

19 Q Thank you.

20 You in this org chart would be under this
21 line, the chief health policy officer reporting to
22 Lynnette Rhodes, correct?

23 A Correct.

24 Q Are you aware of any changes under the
25 chief of staff position?

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1 A No. They are all -- remain with the
2 department in those capacities.

3 Q And what about changes under the chief
4 compliance and technology officer position?

5 A Melanie Simon is no longer with the
6 agency, and neither is Wayne Germon. They have both
7 left, and I'm not sure who replaced either of those
8 positions.

9 Q Okay.

10 A Sonyia still is our Inspector General.

11 MR. HOLKINS: So I'll just note for the
12 record that this is the most recent, recent
13 version of the DCH organization chart that was
14 produced to us by the State. We may follow up
15 to request an updated version that reflects the
16 changes that were described by Mr. Dowd.

17 BY MR. HOLKINS:

18 Q I'd like to ask you about the areas of
19 responsibility for some of the offices that are
20 identified on this org chart, to the extent that you
21 know.

22 A Yes.

23 Q The first is the Office of Continuous
24 Program Improvement, which based on this org chart
25 is under the Chief Health Policy Officer. Correct?

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1 A Correct.

2 Q What is the work of the Office of
3 Continuous Program Improvement?

4 A They look at quality metrics, talk to
5 community providers, members and associations for
6 suggestions that suggest improvements to the
7 Medicaid program.

8 Q Who leads the Office of Continuous Program
9 Improvement?

10 A I am not sure at this point.

11 Q Do you interact with anyone who works in
12 that office?

13 A Yes. If -- there may be -- I'm not sure
14 if they are in that office or not, to be honest with
15 you, but there are people who would ask me questions
16 about data or policy points.

17 Historically, out of that office, that has
18 happened.

19 Q And does your office have any formal
20 coordination with the Office of Continuous Program
21 Improvement?

22 A No formal set meetings or anything.

23 Q Could you next describe the work of the
24 Healthcare Analytics and Reporting office?

25 A Sure. So that group looks at Medicaid

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1 data and provides data.

2 We have a way on our website that anybody
3 can request data out of Medicaid. They also run
4 regular reports for different sections within
5 Medicaid to understand metrics associated with
6 member counts and how many people are receiving what
7 services and that sort of stuff.

8 Q If you had a question about Medicaid
9 service utilization for a specific service, would
10 you pose a request for that data to this office?

11 A I would fill out the form that's online.

12 Q So this is the same form that's available
13 to the public?

14 A Yes. It just delineates -- there's a
15 section that delineates on DCH, so they know it's
16 internal.

17 Q And what is the process for receiving that
18 data from Healthcare Analytics and Reporting?

19 A They email it back to the individual who
20 requests.

21 Q Within what time frame?

22 A Depends on what the request is and it
23 depends on whether or not they have to clarify
24 questions. There's a lot of translation that
25 happens.

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1 Q When's the last time you made a request to
2 Health Care and Analytics Reporting?

3 A Last week.

4 Q What was the subject of that request?

5 A Total number of -- it was PRTF related.
6 It was total number of fee for service members
7 within the last calendar year, that it received
8 service, unique members.

9 Q Could you describe the distinction between
10 fee for service and non-fee for service members?

11 A Sure. So there is either fee for service
12 members, or what some people will call traditional
13 Medicaid members, and then there's Care Management
14 Organization members, or managed care members.

15 It is a hundred percent dependent which
16 bucket you're in on what your category of
17 eligibility is. So if you are in the family
18 Medicaid categories of assistance, low income
19 Medicaid, right from the start Medicaid, PeachCare
20 for Kids Medicaid, or any of the affiliated classes
21 of assistance that exist in those broad categories,
22 you go in to managed care. It's family Medicaid.

23 If you are aged, blind and disabled,
24 including recipients of supplemental security
25 income, or nursing home members, waiver members,

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1 home community-based waiver members, or the Katie
2 Beckett Children, which is a specialized category
3 that Georgia covers that most states don't for
4 disabled children, then you go to -- you are in fee
5 for service Medicaid.

6 And the distinction is that we don't have
7 managed care companies that pay for claims and
8 enroll providers for fee for service. We just have
9 a list of providers and a list of covered services.

10 Q And for fee for service beneficiaries,
11 does DCH directly administer those claims?

12 A Yes.

13 Q Are you aware of the breakdown in
14 enrollment for Medicaid beneficiaries in Georgia
15 between managed care and fee for service?

16 A I don't know the current percentage rate.
17 There's always way more family Medicaid members than
18 there are aged, blind and disabled members.

19 Q So more enrolled in Medicaid for managed
20 care than fee for service?

21 A Correct. I don't know if way more is
22 correct, but it's definitely more.

23 Q Would it be fair to say that more than 50
24 percent of Medicaid beneficiaries are enrolled in
25 managed care?

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1 A Always, yeah. Yes.

2 Q And that includes children?

3 A It includes children who are not Katie
4 Beckett children or children receiving SSI, yes.

5 Q And could you describe who would qualify
6 for benefits under Katie Beckett?

7 A Absolutely. So Katie Beckett is a program
8 that was introduced by the Reagan administration
9 through the TEFRA Act, and it was actually because
10 Katie Beckett's parents had private insurance and
11 the private insurance ran out, hit the million
12 dollar cap and they couldn't get any coverage. They
13 petitioned Reagan, and Reagan included in the TEFRA
14 Act the ability for states to have an option in the
15 eligibility component for children who meet an
16 institutional level of care, but it would be cheaper
17 to serve those children in the community.

18 So you have to be so disabled -- it's not
19 diagnosed based, it's level of care based -- that
20 you would have to go into a nursing facility or
21 hospital, but it's cheaper to serve you at home.

22 If that is the case, then you get -- you
23 can become eligible for Medicaid through the Katie
24 Beckett program, assuming you're not eligible for
25 supplemental security income or Medicaid otherwise.

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1 Q Who within DCH is responsible for
2 assessing whether eligibility criteria are met
3 through Katie Beckett?

4 A The Alliant Health Solutions, our External
5 Review Organization.

6 Q Alliant Health Solutions; is that
7 accurate?

8 A Correct.

9 Q And what responsibilities as an External
10 Review Organization for DCH does Alliant Health
11 Solutions have beyond Katie Beckett eligibility?

12 A They review our prior authorizations for
13 most of the services we administer.

14 Q Does that include a Care Management
15 Organization -- reimbursed service?

16 A I apologize.

17 The Care Management Organizations review
18 their own service.

19 Q So this would just be for the DCH
20 administered services?

21 A Correct.

22 Q Let me just make sure I understand. Is
23 this external review organization actually approving
24 or denying the authorization request in connection
25 with DCH administered services?

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1 A Correct. There is an External Review
2 Organization.

3 Q And what oversight does DCH have over that
4 process?

5 A We have a contractual oversight over the
6 agency with tons of stipulations and -- it's a
7 contract. It's a big contract.

8 Q Could you point or just indicate through
9 your testimony which office within DCH's org chart
10 would be responsible for oversight of the External
11 Review Organization contract?

12 Yours?

13 A Uh-hum. (Affirmative.)

14 Q Which staff member under your supervision
15 is working on that directly?

16 A Me.

17 Q You?

18 A I mean I may utilize other people within
19 my team, but I'm the business owner for the Alliant
20 contract.

21 Q Could you describe what your work entails
22 with respect to the External Review Organization
23 contract?

24 A Sure. Quarterly I review a set of
25 exhaustive measures to ensure that they are in

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1 compliance with what is in the contract.

2 I'm also the point person if they have
3 questions or concerns about administration of the --
4 their responsibilities.

5 And I -- every five years or so, we work
6 to whether or not we're going to keep them and
7 rewrite the contract.

8 Q Okay. Are the measures that you're
9 assessing compliance with set forth in the contract
10 with the External Review Organization?

11 A Yes.

12 Q Could you describe the categories of
13 measures that are included in that contract?

14 A Sure. There's everything from timeliness
15 of level of care reviews for the independent care
16 waiver program to responsive turn-around for prior
17 authorizations for services, for the services they
18 deliver, to -- they review out of state prior
19 authorizations.

20 So just any prior authorization metrics.
21 They also have contact us, call -- they're not call
22 centers. We don't have a call center, but they do
23 have a contact desk system if providers have
24 questions about their PAs.

25 So there's metrics that are associated

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1 with their responsiveness around that.

2 Q Are there any measures captured in this
3 review that relate to outcomes for recipients of
4 services?

5 A They do not -- no, not in this contract
6 they do not. No, no.

7 Q And in your review of their compliance
8 with the requirements of the contract, have you
9 identified any problems in the last year?

10 A No. They've, they've met expectations and
11 all of this year's contract, quarterly contract
12 reviews.

13 Q Has there ever been a time since you were
14 performing this responsibility that the External
15 Review Organization has not met expectations?

16 A Once that I can think of, yes.

17 Q What was the nature of the concern?

18 A We have a hundred percent compliance rate
19 for around the time when somebody contacts them to
20 be included -- they have three days -- if you
21 contact them saying I need to be on the independent
22 care waiver program, they have three days to do a
23 screening. It's just a telephone screening. But
24 they have three days to do a screening.

25 One time they missed one day. They were

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1 five days out for one member on a screening. So we
2 said they didn't meet for that month because the
3 contract compliance was a hundred percent. Even
4 though it was 99.96 percent when you did it, they
5 still got does not meets.

6 Q Does the External Review Organization have
7 any responsibilities beyond the prior authorizations
8 you were just describing?

9 A They do some reviews for the Office of the
10 Inspector General, for like fraud, waste and abuse.
11 But that's not my contract. But they do that work
12 as well. It's a different contract.

13 They also maintain -- now that I think
14 about it, they also maintain the certified nursing
15 assistant registry in the state.

16 Q Is there a separate contract for that as
17 well?

18 A Yeah, and it's co-owned by me and the
19 Healthcare Facility Regulations section. It's a --
20 we're both joint business owners for that one.

21 Q Do you know how long, I believe it's
22 Alliant, has been the External Review Organization
23 performing these functions for DCH?

24 A At least 10 years. At least since I've
25 been back. Before that, though.

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1 Q I'd like to move on -- well, first, let me
2 just ask, we were talking about the Healthcare
3 Analytics and Reporting office. Have you made
4 requests to that office in the last year
5 specifically relating to children's behavioral
6 health services?

7 A No. Other than that PRTF request that I
8 previously said, which is behavioral health related.

9 Q No requests relating to community-based
10 behavioral health services?

11 A Not -- no.

12 Q Are you aware of any other requests made
13 by DCH staff relating to community-based behavioral
14 health services for children to this Healthcare and
15 Analytics and Reporting office?

16 A No.

17 Q I'd like to skip to another office, the
18 State Office of Rural Health.

19 Do you see that in the org chart?

20 A Yeah.

21 Q What is the work of the State Office of
22 Rural Health?

23 A I am not familiar with the State Office of
24 Rural Health. I don't know what they do. Know
25 where they are but that's as much as I know.

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1 Q You know where they are in the building?

2 A They're in Cordele. They're in a
3 different city.

4 Q Oh. Thank you.

5 Do you know if Stephen Register is still
6 the executive director of that office?

7 A I am not sure.

8 Q So let's talk a little bit more about the
9 Medical Assistance Plans section, which I believe
10 your office is located in, correct?

11 A Correct.

12 Q What are the other offices under Lynnette
13 Rhodes' role as the director of Medical Assistance
14 Plans?

15 A There is a quality section that is headed
16 by Dr. Holloway, Calvin Holloway.

17 There is -- I'm not good with -- service
18 administration, and I think -- service
19 administration -- the service administration one was
20 the one headed by Catherine Ivy, and she retired.

21 And then there is an Eligibility and
22 Enrollment.

23 I don't have the titles right but there is
24 a fourth one that is now the interim deputy
25 executive director is Rebecca Dugger, and they do

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1 eligibility stuff.

2 Q Make sure I understand. Rebecca Dugger is
3 over Eligibility and Enrollment, correct?

4 A From an operational standpoint, not the
5 policy manuals. Those stay with me. But like
6 working with DFCS, working on the Gateway
7 Eligibility System. She also has the unit that
8 looks at who is in managed care and who's not in
9 managed care and that enrollment.

10 She also does provider enrollment as well.

11 Q Are you aware of any efforts to expand
12 Medicaid provider enrollment that are currently
13 being led through that office?

14 A No.

15 Q How many staff do you know are in the
16 service administration office?

17 A Catherine's old office?

18 Q Correct.

19 A I don't know. 30 or so, off the top of my
20 head.

21 Q I know Ms. Ivy has retired recently. Are
22 you taking on any of her responsibilities since her
23 retirement?

24 A I have not been formally assigned any of
25 her sections.

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1 Q And have you --

2 A I mean I answer questions as they come in.

3 Q So informally do you find yourself
4 answering questions that otherwise would have been
5 directed to Ms. Ivy?

6 A Sure, absolutely.

7 Q Could you describe the work of the quality
8 section that's led by Dr. Holloway?

9 A Yes. They look at quality across the CMOs
10 and fee for service Medicaid. They look at stuff
11 like HEDIS measures, and just a host of other -- the
12 waivers have, the 1915(c) waivers have a list of
13 quality metrics that are in them. So they gather
14 data for that and review that information as well.

15 Q Are there quality metrics relating to
16 behavioral health services on Georgia's state
17 Medicaid plan that this office monitors?

18 A Not that I'm aware of.

19 Q It's only with respect to the waiver
20 services?

21 A There are distinct waiver measures we have
22 to report to CMS for the 1915(c) waivers, that is
23 correct.

24 Q I want to put this aside for a moment and
25 show you another document, just to dive into this

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1 question a little bit more deeply.

2 Give me one second and I'll pull it up.

3 I just showed you -- I just showed you
4 what's been marked previously as Exhibit 8, and I
5 will represent for the record that this is a letter
6 that the United States received from counsel for the
7 State of Georgia on February 12, 2021. It contains
8 on Pages 2 and 3 supplemental information responsive
9 to the United States Interrogatory No. 17.

10 Specifically, the letter identifies
11 Medicaid billable community health behavioral health
12 services available to children in schools in
13 Georgia.

14 I'm going to give you control of the
15 document, Mr. Dowd, to review the State's
16 supplemental response Interrogatory No. 17, which
17 starts on Page 2 and continues onto Page 3.

18 Give me one second and I'll give you
19 control.

20 You should have control.

21 (Witness reviews exhibit.)

22 A You just want me to review from 13 -- 17
23 down?

24 Q Exactly. It's the State's response to
25 Interrogatory No. 17.

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1 A Yes, I have reviewed.

2 Q Are you familiar with the services
3 identified in the State's supplemental response to
4 Interrogatory No. 17?

5 A Yes. You're talking about behavioral
6 health assessment, the services that are listed
7 down? Yes, I am familiar with them.

8 Q Are you aware whether the quality section
9 within DCH is assessing quality with respect to any
10 of these services?

11 A I am not aware of that.

12 Q Who would be aware?

13 A Dr. Holloway.

14 Q Do you know whether there are quality
15 measures that DCH uses to assess the effectiveness
16 of any of these services?

17 A I am not aware of them.

18 Q Does DCH define these services anywhere?

19 A Yes. They're in the community behavioral
20 health budget -- I mean community behavioral health
21 manual, and they are also in the state plan.

22 Q And do those documents set forth the
23 requirements for reimbursing the service?

24 A Yes.

25 Q Which office within DCH is responsible for

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1 assessing whether those requirements are met?

2 A Requirements related to?

3 Q Reimbursement of the services identified
4 on this list.

5 A It would be the Office of the Inspector
6 General to audit all of our providers to ensure
7 compliance with policy or reimbursement.

8 Q Are you aware of any audits of the
9 services identified in this list by the Inspector
10 General of DCH?

11 A I am not, but that doesn't mean they
12 haven't.

13 Q I want to put aside this document for a
14 second and then pivot back to the org chart that we
15 were discussing previously, which is Exhibit 160.

16 Give me a second and I'll pull it up on
17 your screen again.

18 I want to ask you about another office
19 that's identified on this org chart as the Office of
20 Health Planning on the right side of the org chart.

21 Do you see that?

22 A Yes.

23 Q What does that office do?

24 A I'm not sure. I think that -- I don't
25 want to say if I don't know. I'm not sure what that

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1 office does.

2 Q And then under the CFO title in the org
3 chart, which is toward the left side of this
4 document, I want to direct your attention to
5 Reimbursement Services?

6 A Correct.

7 Q And I apologize if you've already answered
8 this, but is Kim Morris still the director of
9 Reimbursement Services?

10 A Yes.

11 Q Could you describe what the work of
12 reimbursement services entails?

13 A Sure. They do rate modeling and
14 methodology, depending on what the service is.

15 Q Which office -- and this is really for my
16 understanding.

17 Which office, if it's identified on this
18 org chart, is most directly responsible for
19 oversight of the Care Management Organizations?

20 A Oversight of the Care Management
21 Organizations lies within Lynnette's purview,
22 through Catherine Ivy's old position.

23 Q And which office is most directly
24 responsible for coordinating with Community Service
25 Boards?

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1 A That's -- I mean it would be the policy
2 person. It could be Lavina Luca on my team who does
3 Medicaid coordination.

4 If it's a direct policy question, it will
5 likely go to Jamie Cremer, who is now over the
6 behavioral health policy manual.

7 So either my office or Catherine's office
8 within MAP.

9 Q So I'd like to put aside this document for
10 now. What I'm going to do at this point is to show
11 you some policy manuals that either have been
12 produced by the State in this litigation, or we have
13 downloaded from the State's GAMMIS website.

14 A Okay.

15 Q Let me first ask, we've established that
16 GAMMIS stands for Georgia Medicaid Management
17 Information System, correct?

18 A Correct.

19 Q What is the GAMMIS system used for?

20 A It pays claims. It does provider
21 enrollment, so it assigns a provider ID number. It
22 houses all the information associated with members
23 and their eligibility, but its main function is to
24 pay claims for services.

25 Q So it is -- I'm just trying to make sure I

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1 understand -- the system the DCH uses to pay claims?

2 A Correct.

3 Q Who is at DCH for administering GAMMIS?

4 A The Office of Information Technology.

5 Q I think we discussed earlier that GAMMIS
6 is also where current versions of DCH policy manuals
7 are available to the public, correct?

8 A Correct.

9 Q I'm going to show you the next exhibit,
10 which will be 161.

11 Give me one second and I'll pull it up.

12 (WHEREUPON, Plaintiff's Exhibit-161 was
13 marked for identification.)

14 BY MR. HOLKINS:

15 Q This is a document which is identified on
16 the front page as "Policies and Procedures for
17 Children's Intervention School Services," or CISS,
18 Georgia Department of Community Health, Division of
19 Medicaid, revised April 1, 2022."

20 I will note for the record that this
21 document was downloaded from the State's GAMMIS
22 website yesterday.

23 Mr. Dowd, have you seen this document
24 before?

25 A Yes. I mean I've seen the manual for CISS

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1 before, yes.

2 Q Have you seen this revised version as of
3 April 1, 2022?

4 A I don't think I've reviewed the April 1st
5 update of CISS.

6 Q And when did you last have occasion to
7 review the CISS policy manual?

8 A CISS does not -- is not in medical policy,
9 so it's not mine. It's one of Catherine Ivy's
10 policy manuals, but I know probably five or six
11 years ago Tamara Wilson, who was the person who
12 administered -- who is directly over this policy
13 manual, asked me some questions related to OTPT
14 speech related to CISS.

15 Q OTP -- can you define that?

16 A Occupational therapy, speech therapy and
17 physical therapy.

18 Q Thank you.

19 And is Tamara Wilson still the individual
20 at DCH who has direct responsibility for the CISS
21 policy?

22 A Yes.

23 Q I'd like to show you just a couple of
24 documents that relate to the CISS policy before we
25 move on to the next policy.

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1 Give me one second and I'll pull it up.

2 MR. HOLKINS: I've just produced another
3 document, which I'm introducing as Exhibit 162.

4 (WHEREUPON, Plaintiff's Exhibit-162 was
5 marked for identification.)

6 BY MR. HOLKINS:

7 Q I'll note for the record this is
8 GA00381603. It's an email chain from 2017, which
9 you are both a sender and recipient.

10 I will give you control of the document so
11 you can review the chain. Let me know when you've
12 finished.

13 A I got it now.

14 (Witness reviews exhibit.)

15 A Yeah, I've reviewed it.

16 Q Thank you.

17 So I first want to direct you to the
18 beginning of the chain.

19 A Okay.

20 Q This is an email from Angela Snyder to
21 you, Wendy Tiegreen and Rebecca Blanton, dated
22 August 21, 2017.

23 Do you see the second sentence, which
24 poses the question of whether a child receiving
25 Children's Intervention School Services could have

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1 claims paid by their CMO?

2 Do you see that question?

3 A Yes.

4 Q Wendy, in her response, Wendy Tiegreen, in
5 her response, attempts to answer that question and
6 then refers it ultimately to you and Sandra
7 Middlebrooks. Correct?

8 A Yeah. Wendy wouldn't know anything about
9 Children's Intervention School Services or CIS.

10 Q First off, who is Sandra Middlebrooks?

11 A She was one of the CMO compliance workers
12 for DCH. She no longer works for the agency.

13 Q Did Sandra Middlebrooks report to you when
14 she was in that role?

15 A No.

16 Q Did she report to Catherine Ivy?

17 A Yes.

18 Q Sandra Middlebrooks responds to Wendy
19 Tiegreen's email with an email to you dated August
20 22, 2017, where she writes: "Am I correct in that
21 CIS services are not covered by the CMO's?"

22 Do you see that question?

23 A Yes.

24 Q And you respond on 9/8/2017, "I'm not sure
25 of the answer."

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1 Correct?

2 A Yeah. I'm responding that she's written
3 me twice, which is not unusual, and I said, yeah, I
4 got it but I'm not sure of the answer.

5 Q And sitting here today, are you aware of
6 whether CISS services are reimbursable by Care
7 Management Organizations?

8 A CISS? I don't know. You would have to
9 check with the CMO section.

10 Q Which is under the direction of the office
11 that Catherine Ivy used to run?

12 A Correct.

13 Q Do you have any knowledge of the services
14 that are available through CISS?

15 A I, I -- I don't have anything to do with
16 CISS, so I'm not aware.

17 Q I'm going to stop showing you this
18 document and show you another one very quickly.

19 MR. HOLKINS: So I've just published
20 another document, Exhibit 163.

21 For the record, this document is
22 Bates-stamped GA00461590. It's an email chain
23 from 2020 that includes Rachel Kappel, the
24 individual we identified earlier and Katherine
25 Ivy, cc'ing another individual from Emory

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1 University.

2 (WHEREUPON, Plaintiff's Exhibit-163 was
3 marked for identification.)

4 BY MR. HOLKINS:

5 Q I'll give you a moment, Mr. Dowd, to
6 review the chain. Just one moment, I'll give you
7 control.

8 You have control of the document.

9 (Witness reviews exhibit.)

10 A Okay, I've reviewed the document.

11 Q Thank you. I'm going to take control
12 back.

13 I'd like to go to the bottom of this
14 chain, which starts with a request from Rachel
15 Kappel to Catherine Ivy, relating to financing for
16 school-based mental health.

17 In her response dated January 22nd, 2020,
18 Catherine Ivy writes: "Georgia Medicaid funds
19 several school-based services for children with
20 medical and developmental needs through the
21 Children's Intervention School Services program but
22 mental health services, with the exception of
23 counseling which is not widely used, are in the
24 specifically covered."

25 Do you see that language?

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1 A Yes.

2 Q Do you have any reason to question the
3 accuracy of that statement?

4 A I don't know the context in which
5 Catherine was saying this and what her discussion
6 was, but mental health -- we deliver mental health
7 services in clinic, out of clinic, and via
8 telehealth.

9 So whether they're delivered in a school
10 setting or not is not a prohibition.

11 Q Is not a prohibition? I'm sorry?

12 A Correct.

13 Q Just to make sure I understand, there is
14 no restriction on providing the Medicaid
15 reimbursable services that we identified in Exhibit
16 8, the State's supplemental response to
17 Interrogatory No. 17, in a school setting?

18 A As long as it doesn't violate the Idea
19 Act.

20 Q The what act? I'm sorry?

21 A The Idea Act.

22 Q I-D-E-A?

23 A Uh-hum. (Affirmative.)

24 Q What does that stand for?

25 A I don't know but I know the regulations

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1 about having to do -- I mean from our perspective,
2 we have defined services for behavioral health.
3 They can be delivered in clinic, out of clinic, or
4 they can be delivered right now via telehealth, via
5 the Public Health Emergency.

6 So I am not aware of anyplace where it
7 says that services can't be delivered in a school
8 setting, as long as you're delivering the service as
9 defined by Medicaid in accordance with the policy
10 manual of Medicaid. Correct?

11 So that's what I'm saying.

12 Q Okay. And just to go back to this
13 statement by Ms. Ivy, is it your understanding --

14 MR. HOLKINS: He let me rephrase this
15 differently.

16 Q Do you have any reason to question the
17 accuracy of her statement that mental health
18 services, with the exception of counseling which is
19 not widely used, are not specifically covered under
20 Children's Intervention School Services?

21 MR. PICO PRATS: And I'll object to form
22 as far as he doesn't have context for where
23 this is coming from or it's causing him to
24 speculate on this.
25

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1 MR. HOLKINS: Well, if it would be
2 helpful, he has the full email chain.

3 Q You're welcome to spend more time
4 reviewing the full context of the request, which was
5 received by Ms. Ivy from Rachel Kappel in 2020.

6 Would you like to take another look at the
7 document?

8 A I don't need to.

9 Q So I'll pose the question again. Do you
10 have any reason to question the accuracy of Ms.
11 Ivy's statement, which I just read, and I'll read
12 again: "Georgia Medicaid funds several school-based
13 services for children with medical and developmental
14 needs through the Children's Intervention School
15 Services program but mental health services, with
16 the exception of counseling which is not widely
17 used, are not specifically covered"

18 A Correct. Mental health services are not
19 in Children's Intervention School Services. They
20 are in community-based behavioral health services
21 they are in psychological services, as we have
22 discussed previously. They are not part of CISS.
23 That is what she's saying.

24 Q Is it also your understanding per Ms.
25 Ivy's statement that counseling, which is available

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1 under Children's Intervention School Services, is
2 not widely used?

3 A I don't know if it's widely used or not
4 widely used.

5 Q Who would know the answer to that question
6 at DCH?

7 A You would have to run data on it.

8 Q And where would you receive --

9 MR. HOLKINS: Let me rephrase.

10 BY MR. HOLKINS:

11 Q To whom would you put a request for that
12 data?

13 A The data section.

14 Q Is that the Healthcare Analytics and
15 Reporting section we discussed earlier?

16 A Correct.

17 Q Have you ever made a request for that data
18 to the Healthcare Analytics and Reporting section?

19 A No.

20 Q Are aware of any request from the DCH
21 staff for data relating to utilization of counseling
22 under the Children's Intervention School Services
23 program?

24 A No.

25 Q Let's put this aside.

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1 I'd like to show you another policy.

2 (WHEREUPON, Plaintiff's Exhibit-164 was
3 marked for identification.)

4 MR. HOLKINS: I've just published what I'm
5 introducing as Exhibit 164. The first page of
6 this document identifies it as Policies and
7 Procedures For Community Behavioral Health and
8 Rehabilitation Services, Georgia Department of
9 Community Health, Division of Medicaid, revised
10 April 1, 2022.

11 I'll note for the record this document was
12 downloaded from the State's GAMMIS website
13 yesterday.

14 BY MR. HOLKINS:

15 Q Mr. Dowd, was this the Community
16 Behavioral Health and Rehabilitation Services Policy
17 that you referenced earlier?

18 A Yes.

19 Q Have you reviewed this policy or any
20 version of it before?

21 A Yes.

22 Q Have you reviewed this specific version
23 revised April 1, 2022?

24 A No. I would have been informed of any
25 significant changes, which we document in the front

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1 part of the manual, but no, I have not reviewed the
2 whole policy manual.

3 Q And if I'm not mistaken, the individual at
4 DCH who is responsible directly for this policy is
5 Jamie Cremer, correct?

6 A Correct.

7 Q What's your understanding of Ms. Cremer's
8 responsibilities with respect to this policy?

9 A She manages the policy manual in
10 collaboration with the Department of Behavioral
11 Health and Developmental Disabilities.

12 Q Is she the principal author of changes to
13 the policy?

14 A She would be the one who makes the changes
15 to the policy, yes.

16 Q And based in part on consultation with
17 DBHDD, correct?

18 A Correct.

19 Q How often does DCH update this policy?

20 A Every quarter. All the policy manuals are
21 updated quarterly.

22 Q Thank you.

23 We can put this aside.

24 THE WITNESS: Victoria, you're not on
25 mute. Thank you.

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1 MR. HOLKINS: Bear with me. Thank for
2 your patience.

3 THE WITNESS: No worries.

4 BY MR. HOLKINS:

5 Q I'm going to now show you another
6 document, which will be 165.

7 If you give me one second, I can help
8 Frannie.

9 A Sure.

10 (WHEREUPON, Plaintiff's Exhibit-165 was
11 marked for identification.)

12 MR. HOLKINS: I've just published what I'm
13 marking as Exhibit 165. For the record, this
14 document was produced by the State of Georgia
15 to the United States. It's GA 00396806.

16 It's identified on the front page as
17 "Policies and Procedures for Early and Periodic
18 Screening, Diagnostic and Treatment, or (EPSDT)
19 Services.

20 The date is October 1, 2020. It's
21 identified as a policy of the Georgia
22 Department of Community Health, Division of
23 Medicaid.

24 BY MR. HOLKINS:

25 Q Mr. Dowd, have you seen this document

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1 before?

2 A Yes.

3 Q Are you aware of whether the EPSDT policy
4 for DCH has been updated since October 1, 2020?

5 A It should be updated quarterly.

6 MR. HOLKINS: I'll note for the record
7 that I was not able to download the updated,
8 the most recent version of the DCH EPSDT policy
9 from GAMMIS and would request a copy from
10 counsel.

11 We can follow up separately about that.

12 BY MR. HOLKINS:

13 Q For what purpose did you review this EPSDT
14 policy?

15 A This specific one? All policy manuals are
16 -- you know, they will -- I lead a group where
17 everybody tells everybody else what changes were in
18 their policy manual. So as part of that I would
19 have reviewed changes to the policy manual.

20 Q Can you talk about that group? What is
21 the name of the group that is reviewing policy
22 manual changes?

23 A It doesn't have a name. It's just a --
24 it's a quarterly policy manual review committee, and
25 we all -- it's really just to inform within MAP what

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1 changes are in a policy because a change in respite
2 -- not respite. Respite isn't a policy manual.

3 But a change in hospice could somehow end
4 up affecting one of the waiver programs or nursing
5 home, right. So we bring all the policy manual
6 holders together on a quarterly basis and they talk
7 about what changes, if any, have happened.

8 And Melinda Ford Williams, who is over
9 this policy manual, attends those meetings. So I
10 would have reviewed it in the normal course of that
11 function, any changes.

12 And I've reviewed it over the years just
13 in the normal course of business where people have
14 asked me a question. I always go to the policy
15 manuals to review what's in the policy manuals.

16 Q Understood. Let's set this aside.

17 I'd like to show you another policy. This
18 document is very large and cumbersome to work with
19 on the computer, so bear with me. I will show you
20 the front screen and you're welcome to look at the
21 document further if you like. But just note that it
22 is somewhat challenging to scroll through.

23 MR. HOLKINS: This is Exhibit 166.

24 (WHEREUPON, Plaintiff's Exhibit-166 was
25 marked for identification.)

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1 MR. HOLKINS: I'll note for the record it
2 was produced by the State of Georgia to the
3 United States as GA04312140. It's identified
4 as Policies and Procedures for Autism Spectrum
5 Disorder, or ASD, Services, Georgia Department
6 of Community Health, Division of Medicaid,
7 revised July 1, 2020.

8 BY MR. HOLKINS:

9 Q Mr. Dowd, have you seen any version of
10 this policy?

11 A Yes.

12 Q Did you have a role in drafting this
13 policy?

14 A Yes.

15 Q Are you the principal drafter of this
16 policy?

17 A Yes.

18 Q Do you also author revisions to this
19 policy postdating July 1, 2020?

20 A I don't know if I did it at July 1, 2020,
21 or if I passed it off to Melanie Wilson at that
22 point.

23 I believe July 1st, 2020 I was still the
24 owner of this policy manual and making any revisions
25 to it.

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1 If you could scroll down to changes being
2 made, I can tell you whether it was me or not.

3 Q I will give you control, so you can jump
4 right in.

5 A Okay.

6 (Discussion ensued off the record.)

7 A I believe this was -- Melanie had taken
8 over the policy manual by this time.

9 Q Melanie Wilson still has control over this
10 policy today?

11 A Correct.

12 Q Do you approve -- do you have any role in
13 approving changes made to the Office of Autism
14 Spectrum Disorder Services policy currently?

15 A She reviews policy changes with me, so
16 yes. I don't know if it would be approval, but she
17 reviews any, any significant policy change with me
18 that's not just cosmetic.

19 Q When this --

20 MR. HOLKINS: Let me ask this differently.

21 Q When did this policy first get drafted?

22 When was the first version of the autism

23 --

24 A January 1st, 2018.

25 Q And did you author that policy?

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1 A Yes. In collaboration with -- it was a
2 multi-agency collaboration, along with advocates and
3 providers and members. But, yes, I was the
4 principal writer of the policy.

5 Q I'd like to talk a bit about the
6 coordination you did outside of DCH as part of
7 drafting that policy.

8 Let me first ask, with which providers
9 were you consulting in developing the initial Autism
10 Spectrum Disorder Service policy in January of 2018?

11 A National advocates and providers like
12 Florida Autism Center; Radiant; Anna Bullard, who is
13 a huge advocate in the state and now is the head of
14 the ADA certification body for BCBA; the Department
15 of Public Health; the Department of Behavioral
16 Health; Texas.

17 Q The State of Texas?

18 A Yes. Their medical director, because they
19 were building their autism program at a similar
20 time.

21 CMS, certainly Centers for Medicare and
22 Medicaid services.

23 Family members to assess what their needs
24 were.

25 I'm also a member of the Georgia Council

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1 on Developmental Disabilities. I'm a standing
2 member of that. So I have interaction with a lot of
3 individuals with intellectual or developmental
4 disabilities. So their input was put in during this
5 time as well.

6 Q Did you get input when developing this
7 policy from any staff for GNETS?

8 A No.

9 Q Did you seek it?

10 A No.

11 Q Do you see that as -- do you see their
12 input as relevant?

13 A I didn't know GNETS, who they were in
14 2018. I don't have kids, don't know anything about
15 GNETS. Nor did anyone else bring it up.

16 Q And nor did -- I'm sorry. Can you say it
17 again?

18 A Nor did anyone else that I consulted with
19 bring it up.

20 Q Could you describe -- let me first ask,
21 does this policy include outpatient services for
22 children who have autism spectrum disorder?

23 A This policy is therapy.

24 Q Therapy?

25 A It's autism spectrum disorder therapy.

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1 Q Okay.

2 A Just like occupational therapy, speech
3 therapy, or physical therapy, there's a discipline
4 that is autism spectrum disorder therapy, most often
5 thought of as ABA therapy, right, applied behavioral
6 analytics therapy.

7 So what this does is, it is therapy. It
8 is somebody comes in and they work on a specific
9 task to correct or ameliorate the child's condition
10 just like you would teach a child how to speak
11 appropriately, you would teach a child here how to
12 react to their environment appropriately, how to
13 adjust maladaptive behaviors, right.

14 So that's what this service is. It is a
15 therapy service.

16 Q Understood. Thank you.

17 Is that therapy service available in a
18 school setting under DCH's Medicaid rules?

19 A It's available inpatient, outpatient, and
20 via telehealth. There's no restrictions as to
21 whether or not it's applied in school if it's
22 applied in accordance with the definitions of the
23 service as outlined in the manual.

24 Q Did you perform any assessment of need for
25 this ASD therapy service when developing the policy?

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1 A Yes.

2 Q And what was that assessment of need?

3 A I can't -- I can't remember. There was a
4 PowerPoint presentation. It was X number of
5 children in the State. It was allowed in the State
6 that had a diagnosis, and that's how the fis -- the
7 initial fiscal analysis was done for developing
8 autism therapy in the state.

9 Q Was this a presentation that you gave?

10 A Yeah. I gave it to several people,
11 including at the Governor's mansion, to the
12 Governor's wife and a whole bunch of people at one
13 point.

14 Q What was the data that you relied on to
15 inform that assessment of need, as described in the
16 presentation?

17 A It came from a lot of public health data,
18 and, you know, Medicaid data, and we went out to the
19 licensing board to see how many ABA therapists we
20 currently had in the State. It had a lot of
21 different data on it.

22 Q How many ABA therapists were operating in
23 Georgia at the time you developed this policy, do
24 you remember?

25 A I don't remember off the top of my head.

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1 It was not a lot.

2 Q Do you know what the number is now?

3 A It's huge. We're one of the biggest
4 states in the nation in ABA therapists at this
5 point.

6 Q Do you know how many of therapists are
7 providing ASD therapy in school settings?

8 A We wouldn't know that. Again, place of
9 service is in clinic, out of clinic, and via
10 telehealth.

11 Q Is there any way under the current claims
12 reporting for DCH to determine setting of service
13 with more granularity than in clinic, out of clinic,
14 telehealth?

15 A No.

16 Q Have there been any discussions within DCH
17 about developing that capability?

18 A No, not that I'm aware of.

19 Q Have you surveyed ABA providers statewide
20 to assess where they're providing the service?

21 A You mean in what setting they're providing
22 the service?

23 Q Correct.

24 A No. Not other than what we currently
25 collect in the claims data.

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1 Q Have you ever done any training on this
2 policy for providers?

3 A Yes.

4 Q Which providers have benefited from your
5 training on this policy?

6 A The therapy providers. Not just the ABA
7 therapy providers, but also the OT/PT speech therapy
8 providers.

9 I've spoken at a national autism
10 conference on a panel with private and public
11 insurers on how we developed this policy.

12 CMS has asked me to speak to other states
13 and train them on how we developed this policy.
14 It's a national model.

15 Q Have you provided training to Community
16 Service Boards in Georgia on this policy?

17 A Initially, yes.

18 Q Does that include all Community Service
19 Boards in the State?

20 A It included those that were interested in
21 becoming enrolled providers.

22 I will tell you that I think most of them
23 were initially interested in becoming providers when
24 we introduced the policy.

25 Q And are, are there enrolled ABA providers

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1 at each of the Community Service Boards now?

2 A I don't know. I don't think all of them
3 are enrolled currently, but I don't know which are
4 and which aren't.

5 Q Do you monitor or does anyone on your
6 staff monitor enrollment as an ABA provider
7 statewide?

8 A You --

9 Q Let me just try that again.

10 Do your staff track enrollment statewide
11 as ABA providers?

12 A We periodic -- yes. We periodically look
13 at the number of ABA therapy providers within the
14 state and different regions. There are still areas
15 that could utilize more providers, but there are
16 areas of the state where we have a lack of providers
17 in every Medicaid category.

18 Q What are those areas?

19 A How familiar are you with the State?

20 Q Assuming --

21 A Cairo, Hahira.

22 Q Assuming no familiarity.

23 A Okay. Tolliver, Cairo, Hahira.

24 So think of Southwest Georgia. A lot of,
25 a lot of farmland, a lot of red clay farm land.

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1 Very rural. I mean a lot of people think
2 of Georgia as Atlanta. A lot of Georgia is very
3 rural, or very mountainous -- well, depends. If
4 you're from California, they are not considered
5 mountains. Trust me, I have a friend here from
6 California, and he's like, these hills? This is not
7 a mountain.

8 But what we think of as the mountains in
9 North Georgia, yeah.

10 Q So North Georgia and Southwest Georgia you
11 identified as the regions where they are most in
12 needs of --

13 A I would honestly just say we have plenty
14 of providers in the mountain regions. Where we have
15 a lack of providers primarily is Southwest Georgia,
16 and somewhat along the Southeast corridor. There's
17 -- there's just a lot of open area and it's quite a
18 bit of swamp down there. Okefenokee's down there.

19 It's a lot of barren land. There's cities
20 in there but there's -- frequently to get an ABA
21 therapist, you may have to do some travel or utilize
22 telehealth.

23 Q So you testified, I believe, that you did
24 provide training on this policy to Community Service
25 Boards when it was first introduced; is that

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1 correct?

2 A That is correct. It was made available
3 through Robin Garrett Ganoë.

4 Q Did you provide or have you provided any
5 training on this policy to staff at GNETS programs?

6 A No.

7 Q Has it ever been requested of you?

8 A No.

9 Q So I'm going to stop sharing this policy.
10 On the GAMMIS system there are two
11 provider billing manuals identified. Entertain me
12 here.

13 The first is CMS-1500. Are you familiar
14 with that policy?

15 A No. That's a billing manual?

16 Q Uh-hum.

17 A No, uh-uh. (Negative.)

18 Q Do you have any familiarity with the
19 billing manual on the GAMMIS system identified as
20 UB-04?

21 A No. Those are how providers submit
22 claims. I don't review those.

23 Q Who is responsible for reviewing those
24 policies?

25 A That comes out of the Financial

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1 Department, the Kim Morris section.

2 Q So I have two more documents I want to
3 show you and then we'll take our lunch break.

4 Give me one second.

5 MR. HOLKINS: I've just published what I'm
6 introducing as Exhibit 167.

7 (WHEREUPON, Plaintiff's Exhibit-167 was
8 marked for identification.)

9 MR. HOLKINS: For the record, this is
10 GA01166102. It's identified on the first page
11 as Policies and Procedures for Community Based
12 Alternatives for Youth, Georgia Department of
13 Community Health, Division of Medicaid, July 1,
14 2020.

15 BY MR. HOLKINS:

16 Q Mr. Dowd, have you seen any version of
17 this document before?

18 A Yes.

19 Q Did you have any role in developing this
20 document at any time?

21 A I don't believe so, no.

22 Q Did you have any responsibility for
23 implementing community-based alternatives for youth
24 waiver?

25 A I was involved when I was with DBHDD,

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1 which was 12 years ago, with a demonstration project
2 for CBAY, which was part of a CHIPRA grant.

3 So I was involved with it but I did not --
4 was not involved with the development of this
5 policy, no.

6 Q Could you describe the origins of that
7 demonstration project?

8 A Yeah. It was part of the CHIPRA grant,
9 and so we -- which was money to do demonstration
10 projects, and the wraparound services associated
11 with community-based alternatives for use. Applied
12 for that grant, DBHDD and DCH in collaborations, to
13 do a demonstration project to develop this new
14 service.

15 Q And that is the service that became IC3,
16 correct?

17 A Correct.

18 Q Were there any other service components
19 included in the CBAY waiver beyond IC3?

20 A Yes. There were specialized services that
21 were included within the initial CBAY grant that
22 were not allowed to be Medicaid covered. They are
23 outside the scope of Medicaid, that were things like
24 paving someone's driveway. We don't pave driveways.
25 We're an insurance plan.

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1 Q What's your understanding why DBHDD and
2 DCH worked together to create the IC3 service
3 through CBAY?

4 A To provide additional services for what we
5 think of as the most intense children in the
6 spectrum of needing behavioral health services.
7 It's a very high-fidelity wraparound service. It's
8 a constant in-home touch with family members.

9 So you have very high end support system
10 around them.

11 Q Did DBHDD and DCH undertake any assessment
12 of need for the IC3 service as part of developing
13 the CBAY waiver?

14 A As part of the CBAY grant they did, yes.

15 Q And could you describe what that
16 assessment and need revealed?

17 A I don't -- I mean I don't remember the
18 specifics of what our assessment was. We obviously
19 continued with development of the service and
20 inclusion of it as IC3.

21 Q So would the assessment of need for a
22 high-fidelity wraparound be reflected in the State's
23 initial application for this waiver?

24 A Yes. The old CHIPRA waiver, yes.

25 Q Does this community-based alternatives for

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1 youth policy manual still exist? Is there a current
2 version?

3 A I hope not because that's closed. The
4 waiver is terminated. So I hope it's still not out
5 there.

6 Q The demonstration project expired?

7 A Yeah.

8 Q And it was not renewed, correct?

9 A Uh-hum. (Affirmative.)

10 Q I'm going to stop sharing this document.

11 A I mean the historical policy manuals are
12 always out there. If you just go to the end of the
13 page, you can go back to like upteen years to get
14 the old policy manuals.

15 MR. HOLKINS: So I actually think it makes
16 sense for us to take our break now and I'll get
17 the next document ready for after the break.

18 I think we can take an hour, if that's all
19 right with everyone.

20 So we'll break.

21 THE VIDEOGRAPHER: We're off the record at
22 12:01.

23 (A recess was taken.)

24 THE VIDEOGRAPHER: Video back on the
25 record at 1:00 p.m.

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1 BY MR. HOLKINS:

2 Q Welcome back, Mr. Dowd.

3 I wanted to ask just a question or two
4 revisiting some material we discussed before the
5 break.

6 Does your office maintain a list of all
7 the state plan amendments that have been proposed or
8 considered since you rejoined DCH 10 years ago?

9 A Yes.

10 Q Where would you access that list?

11 A There's a library. So there's like a hard
12 copy of everything we've submitted.

13 Q And where is that -- is this a physical
14 library?

15 A Yes.

16 Q Is there an electronic copy of those
17 records as well?

18 A I believe so, on the Odrive.

19 Q So that would capture state plan
20 amendments that were developed but not proposed?

21 A No. It only captures what -- my
22 understanding is it only captures what has been
23 submitted and any questions back and forth from CMS.

24 Q What about draft state plan amendments
25 that ultimately were not sent to the DCH board, is

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1 there a policy for those?

2 A No. Not that I'm aware of.

3 Q I'd like to show you another document.

4 MR. HOLKINS: This will be 168.

5 (WHEREUPON, Plaintiff's Exhibit-168 was
6 marked for identification.)

7 MR. HOLKINS: For the record, this is a
8 document not produced by the State of Georgia,
9 the United States, but rather pulled from the
10 State's public website for Medicaid, and the
11 cover of the document reads State of Georgia
12 Contract Between the Georgia Department of
13 Community Health and, in parentheses,
14 Contractor for professional -- for Provision of
15 Services to Georgia Families.

16 BY MR. HOLKINS:

17 Q Mr. Dowd, I'm happy to give you control of
18 this document. My question to you is whether you've
19 seen this document or any version of it?

20 A Not that I'm aware of. This one is not
21 familiar to me.

22 Q Have you ever seen a contract between DCH
23 and the managed care organizations?

24 A No. I don't, I don't have any part of the
25 contracts with the managed care corporations.

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1 Q Just to confirm for the record, that would
2 fall under the office previously led by Catherine
3 Ivy, correct?

4 A Correct. And Lynnette.

5 Q And Lynnette Rhodes?

6 A Yeah. Yes.

7 Q Which official within DCH is directly
8 responsible for drafting the contracts between DCH
9 and the CMOs?

10 A Well, it's a collaboration by the business
11 owner. Previously, that was Woody Dahmer. He has
12 left.

13 There is somebody in that position now but
14 I'm not sure of what their name is, and then our
15 Contracts Department, which is led by Lindsey
16 Bredlove.

17 Q And is there a representative from the
18 section led by Lynnette Rhodes who is participating
19 in the drafting?

20 A Lynnette would participate herself.

21 Q You can put this aside.

22 I believe you testified in the morning
23 that children enrolled in Medicaid are eligible to
24 receive Medicaid reimbursable services in schools,
25 correct?

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1 A Yes. There's nothing that I know of that
2 prohibits them from receiving the services in a
3 school setting.

4 Q Is that true for children enrolled in
5 Medicaid regardless of the entity that is
6 administering the claim?

7 A Yeah, I know of no prohibition against it.

8 Q So that includes children who are enrolled
9 in PeachCare for Kids?

10 A Correct.

11 Q And also children whose claims are being
12 administered directly by DCH in a fee for services?

13 A Correct.

14 Q And then finally also for children whose
15 claims are being administered by the Care Managed
16 Organizations?

17 A Correct.

18 Q Are schools eligible to enroll as Medicaid
19 providers in Georgia?

20 A I don't know the answer to that. As far
21 as -- because I don't do CISS. I don't know if
22 they're enrolled providers or eligible to enroll.

23 Q Is that the only way that schools could
24 enroll as a provider of CISS services?

25 A I don't know the answer to that question.

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1 Q Would you pose that question to --

2 A Provider enrollment.

3 Q And who leads that again?

4 A I don't think I've said, but it's Nicole
5 Thompson.

6 Q Nicole Thompson is an employee of DCH,
7 correct?

8 A Correct. She's over provider enrollment.

9 MS. COHEN: Apparently, at least one
10 percent on the Zoom call has lost audio.

11 MR. HOLKINS: I think that may be an issue
12 on their end.

13 BY MR. HOLKINS:

14 Q And do you have any understanding of
15 whether LEAs can enroll as Medicaid providers in
16 Georgia?

17 A I don't. I don't know the rules behind
18 that.

19 Q And, again, that's a question you would
20 pose to Nicole Thompson?

21 A Yes. Provider enrollment.

22 Q Are you able to identify the Care
23 Management Organizations operating in Georgia
24 currently?

25 A Who they are? Yeah. Sure, yes.

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1 Q And what are they?

2 A Amerigroup, PeachState, and Care Source.
3 PeachState is -- Amerigroup, PeachState, which is
4 the Centene Corporation, and Care Source, are our
5 three.

6 Q When did the State implement -- implement
7 managed care?

8 A Oh, Nellie.

9 It was my first time at DCH. I don't
10 remember. A long time ago. I don't remember. More
11 than 10 years ago.

12 Q Have the -- has it always been the three
13 Care Management Organizations that you just
14 identified that have contracted with the State?

15 A No.

16 Q What are -- do you recall the names of the
17 other Care Management Organizations that have
18 contracted with the State since the State
19 implemented managed care?

20 A Wellcare, which was bought by Centene.

21 Q Do all of the managed care organizations
22 currently operating in Georgia administer Medicaid
23 claims for children's behavioral health services?

24 A Yes.

25 Q What distinguishes which beneficiaries are

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1 assigned to which Care Management Organization?

2 A Category of eight.

3 Q Category of eight?

4 A Yeah. How you become Medicaid eligible --
5 oh, you mean to what, what CMO?

6 Q Correct. Yes.

7 A It's choice. It's choice, and then it's
8 also -- there's some analytics, like if mom is in a
9 certain Care Management Organization and she's
10 pregnant and she has two kids that are also in that
11 Care Management Organization and she has a new-born,
12 that child will automatically be enrolled in that
13 same plan, unless she chooses to go into another
14 plan.

15 Q And so if a family is newly enrolling in
16 Medicaid, they would have the option of choosing
17 which Care Management Organization have administered
18 their services?

19 A Correct.

20 Q What's your understanding of why Georgia
21 implemented managed care?

22 A Like many states, we were looking at
23 rising health care costs and we were also looking at
24 the ability to CMOs -- for CMOs to do nontraditional
25 supports and services that you can't do under fee

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1 for service.

2 And so like many states, we chose the
3 option for the family Medicaid populations to go
4 that route.

5 Q Could you identify some of the
6 nontraditional supports and services that CMOs are
7 able to offer that can't be done fee for service?

8 A Sure. Classic one is Wal-Mart cards,
9 right. If you're a pregnant woman and you make all
10 your prenatal visits, they may give you a \$25
11 Wal-Mart card. We can't do that in fee for service
12 Medicaid, but they have the flexibility to do it
13 within the CMOs. They all have a set of value-added
14 services.

15 Q Is it accurate to say that DCH
16 administers, through its fee for service system,
17 claims for all of the community-based behavioral
18 health services for children identified in Exhibit 8
19 that we were looking at earlier?

20 A Yes, for the fee for service population.

21 Q And that's -- and the CMOs are also
22 administering claims for that same set of services
23 for their enrolled population?

24 A Correct.

25 Q How would you describe the relationship

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1 between service providers and the CMOs?

2 A They're contracted entities.

3 Q Could you elaborate?

4 A Yeah. They enroll for Medicaid and then
5 they obtain a contract with each of the three CMOs
6 to operate in those plans.

7 Q Would you say there is at times a
8 disconnect between service providers and CMOs in
9 Georgia?

10 A I mean I'm not sure -- a disconnect in
11 what way?

12 Q Well, let's be specific.

13 A Yeah.

14 Q Would you say that there is a disconnect
15 --

16 MS. COHEN: I'm sorry, before you ask your
17 question, is your mike on mute, Jason?

18 THE WITNESS: Is my mike on mute?

19 THE VIDEOGRAPHER: No.

20 MS. COHEN: I'm just getting some feedback
21 from people who are watching on Zoom.

22 THE VIDEOGRAPHER: Nothing has changed
23 since this morning.

24 (Discussion ensued off the record.)

25 MR. HOLKINS: Frannie, let us know if we

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1 need to take a break to troubleshoot.

2 MS. COHEN: I will.

3 BY MR. HOLKINS:

4 Q So, specifically within the context of
5 prior authorization for services, have you ever
6 witnessed a disconnect between service providers and
7 CMOs?

8 A Yes. They've had questions about the
9 prior authorization process and/or complaints, as
10 they have with fee for service before.

11 Q And what have those complaints been with
12 respect to the prior authorization process, specific
13 to the CMOs?

14 A Denial -- having denials, getting not
15 enough units that they want.

16 Q Do providers, to your knowledge, take
17 those complaints directly to the CMOs, or are they
18 coming to you?

19 A There's an appeal process within the CMOs,
20 and then they also always have the ability to
21 escalate it to the Department of Community Health.

22 Q And when those complaints are escalated to
23 DCH, what are the options that are available to DCH
24 to resolve the complaints?

25 A Well, the -- DCH is the holder of a

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1 contract with, with the CMOs. They are responsible
2 for administering their whole program, their
3 programs, but DCH may, on behalf of the provider,
4 listen to the concern and then meet with the CMO to
5 act as an intermediary. They may ask the CMO to go
6 back and revisit with the provider.

7 They can do a broad range of things like
8 that.

9 Q Are you aware of any specific complaints
10 in the last year regarding authorization for
11 community-based behavioral health services through
12 the CMOs?

13 A Not off the top of my head. Again, those
14 complaints are very common across all of Medicaid.

15 Q Would Nicole Thompson also be the person
16 responsible for addressing those complaints once
17 received by DCH?

18 A No. It would be Catherine Ivy's unit with
19 the CMO Compliance Unit.

20 Q So just to guide this discussion, I'm
21 going to put back up on the screen Exhibit 8, which
22 is the State's supplemental response to the United
23 States Interrogatory No. 17, among others, but
24 specifically No. 17 is what we will be looking at.

25 Give me one second and I'll put this on

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1 the screen.

2 As part of your job duties do you review
3 or assess information relating to the availability
4 of these community behavioral health services in the
5 State?

6 A No.

7 Q To your knowledge, does anyone in DCH
8 review information relating to the availability of
9 these community behavioral health services in the
10 state?

11 A I don't know specifically but if it would,
12 it would be in the quality section.

13 Q And that's under Dr. Holloway's
14 leadership, correct?

15 A Correct.

16 Q Is the availability of these
17 community-based behavioral health services something
18 you discuss at all as part of your duties?

19 A I may be in discussions but it's not
20 within my purview. It's not something I have the
21 oversight of.

22 Q When would this come up? In what context?

23 A Well, I'm part of the CYA meeting that
24 covers everything that's behavioral health. I may
25 be in an IDT meeting, which is an interagency

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1 behavioral health meeting.

2 I could just have people call me and ask
3 me, and then I would redirect them to the -- if it
4 was CMO, I'd redirect them to the CMO Compliance
5 Unit. If it was related to fee for service, I would
6 ask Jamie to look into it.

7 Q Are you familiar with the term "gap
8 analysis"?

9 A Yes.

10 Q Has DCH, to your knowledge, undertaken a
11 statewide gap analysis for the services identified
12 on this list?

13 A I'm not -- I don't know. I'm not aware of
14 that, if they have or haven't.

15 Q Which office within DCH would you expect
16 to have knowledge or responsibility relating to gap
17 analysis in connection with these services?

18 A If it was the CMO unit, the CMO unit does
19 look at provider network adequacy. So I would
20 expect the -- part of the CMO compliance. They
21 would look at that.

22 Otherwise, Dr. Holloway.

23 Q Could you describe what you mean by
24 network adequacy?

25 A Right. As part of the CMO contracts, they

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1 review provider network adequacy to make sure they
2 have enough providers within any area or a part of
3 the state within the CMOs.

4 MR. HOLKINS: So let's take a two-minute
5 break to troubleshoot the volume issue.

6 Could we break.

7 THE VIDEOGRAPHER: Off record at 1:18.

8 (Discussion ensued off the record.)

9 THE VIDEOGRAPHER: Back on the record at
10 1:22.

11 BY MR. HOLKINS:

12 Q Mr. Dowd, I was asking you to --

13 MR. HOLKINS: Does everyone have their
14 computer on mute?

15 (Discussion ensued off the record.)

16 BY MR. HOLKINS:

17 Q So, Mr. Dowd, I was asking what is your
18 understanding of the term "network adequacy"?

19 A I don't know what the specific contractual
20 rules are, but they do look to monitor to see
21 there's enough providers in any given area or city
22 or region.

23 Q To your understanding, are they doing that
24 monitoring for each Medicaid reimbursable service
25 covered under the state plan?

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1 A I don't know the specifics to that but I
2 believe they look at all services.

3 Q I'd like to show you another document.

4 MR. HOLKINS: This will be 169.

5 (WHEREUPON, Plaintiff's Exhibit-169 was
6 marked for identification.)

7 MR. HOLKINS: Give me a second. I've just
8 produced the first part of Exhibit 169.

9 For the record, this is GA00382036.

10 BY MR. HOLKINS:

11 Q I'm going to give you a chance to review
12 the document, Mr. Dowd. Give me one second.

13 You have control.

14 (Witness reviews exhibit.)

15 A Yep, I've reviewed it.

16 Q So this is an email from you dated
17 February 5, 2018, to Wendy Tiegreen, Linda McCall,
18 and Maya Carter, with the subject Behavioral Health
19 Services, correct?

20 A Correct.

21 Q In the body of the email you reference
22 "Georgians for a Health Future"?

23 A Uh-hum. Yes.

24 Q What is that organization?

25 A An advocacy organization.

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1 Q I'm sorry?

2 A An advocacy organization.

3 Q What is the subject of their advocacy?

4 A I think it's across many things. Here it
5 was related to behavioral healthcare in the Savannah
6 area.

7 Q That's Chatham County?

8 A Correct.

9 Q Your email references an environmental
10 scan of barriers to behavioral healthcare in Chatham
11 County, correct?

12 A Yeah, that's what I said.

13 Q And this is an environmental scan that was
14 conducted --

15 A By Georgians --

16 Q -- by Georgians for a Health Future?

17 A Correct.

18 Q And you know in your email the results of
19 that environmental scan are attached, correct?

20 A Correct.

21 Q You note at the end of the email that: "I
22 think it has value for places for us to look for
23 process and improvement," correct?

24 A Correct.

25 Q And it is a reference to the environmental

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1 scan results?

2 A Correct.

3 Q I'd like to now pivot over to the
4 attachment. For the record, this is GA00382037.
5 It's Part 2 of Exhibit 169.

6 The title of the document is "Provider
7 identified Child, Adolescent & Young Adult
8 Behavioral Health & Addictive Disease Barriers and
9 Gaps in Chatham County."

10 Mr. Dowd, do you remember reviewing this
11 document?

12 A Not, not really. I mean it's familiar but
13 not really.

14 Q Do you recall whether any process
15 improvements were implemented as a result of this
16 environmental scan?

17 A I don't -- I don't remember.

18 Q Who would have been responsible for
19 implementing process improvements at DCH in response
20 to this environmental scan?

21 A This is an advocacy submitted provider
22 scan from word of mouth statements that they took
23 from providers. It is not science. It is noted
24 information that was done when they did a survey of
25 providers and members in the area.

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1 So we would have looked at this as, as we
2 do very frequently when people come to us with
3 concerns and issues. We would have considered it as
4 part of our process improvement process, whether it
5 be from that section that does continuous process
6 improvement or from individual policy owners, as to
7 whether or not there were some systemic changes we
8 could make in response to their concerns.

9 Q And were any systemic changes made in
10 response to these concerns?

11 A I don't remember. It was 2018. I just --
12 I don't remember if they were specifically related
13 to that.

14 Q Skipping back to the email, which is 036,
15 Part I of Exhibit 169, you comment that Per GHF, the
16 environmental scan was very thorough and included
17 interviews with providers, Gateway Behavioral Health
18 Services, parents of children with behavioral health
19 needs and others who interact with the behavioral
20 health system.

21 Is that what you wrote?

22 A Yes, and also what I just said.

23 Q Are you reconsidering your evaluation that
24 the environmental scan was very thorough?

25 A No, I'm not reconsidering that it's very

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1 thorough. I mean it may be very thorough but that
2 doesn't mean that it's accurate necessarily. We
3 would have to look at the actual things, like
4 provider network adequacy based on numbers.

5 My understanding from my recollection of
6 this in 2018, which was four years ago, was that
7 this was a survey that was done with parents,
8 members, providers, and advocates in the area. It
9 was not an environmental scan.

10 Q That's how you refer to it in this
11 document, though?

12 A Okay.

13 Q So is this or is this not an environmental
14 scan?

15 A It's not.

16 Q Because?

17 A Because I don't see any metrics that are
18 associated with what we have as provider numbers or
19 anything like that. That would have to be further
20 work that was done.

21 Q Understood. And has DCH, to your
22 knowledge, conducted any environmental scans, as you
23 would define it, specific to behavioral health
24 services in Chatham County?

25 A I don't know.

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1 Q Have you seen any other surveys like this
2 one for different counties in Georgia?

3 A Not that I remember.

4 Q Do you know whether GHF performs analyses
5 like this one for counties other than Chatham?

6 A I don't know.

7 Q Do you have any basis to question the
8 adequacy of the representations made in this
9 document?

10 A No.

11 Q Is it fair to say that in your view it's
12 important to collect hard data based on metrics in
13 order to perform a rigorous analysis of barriers to
14 access to behavioral healthcare?

15 A Yes.

16 Q We can put this aside.

17 I'd like to pull up another document.
18 Give me a second and I will put it on the screen.

19 MR. HOLKINS: I just published what I'm
20 introducing as Exhibit 170.

21 (WHEREUPON, Plaintiff's Exhibit-170 was
22 marked for identification.)

23 BY MR. HOLKINS:

24 Q It has two parts, the email we're viewing
25 now and an attachment.

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1 I'll note for the record this is
2 identified as GA01125480.

3 This is an email from Blake Fulenwider,
4 dated August 13, 2018.

5 Mr. Dowd, you're listed in the cc:
6 category. Do you see that?

7 A Yes.

8 Q The subject of the email is: "Response to
9 your request from Georgia Medicaid - BH Service
10 survey and CMO contract."

11 First off, do you recall receiving this
12 email?

13 A No.

14 Q I'd like to show you one of the documents
15 attached. It's the first one titled LAC Medicaid
16 Survey of Children's Behavioral Health, Revised
17 8/10/18.

18 Give me a second and I'll pull up that
19 document.

20 I have just published Part 2 of Exhibit
21 170. For the record, the Bates number is
22 GA01125481. The title of the document is "South
23 Carolina Legislative Audit Council, LAC Survey of
24 Other State Medicaid Programs."

25 Mr. Dowd, I'd like to give you a moment to

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1 take a look at this document, if that's all right.

2 I can give you control of the screen.

3 (Witness reviews exhibit.)

4 A Okay, I've reviewed it.

5 Q Taking back control of the document and
6 scrolling to the top.

7 So this appears to be responses by DCH to
8 questions posed by the South Carolina Legislative
9 Audit Council, correct?

10 A That's what it appears to be, yes.

11 Q Did you have any role in drafting the
12 responses in this document?

13 A I don't remember if I was asked questions
14 at the time or not.

15 Q Do you know or recall who at DCH was
16 involved in drafting responses?

17 A No.

18 Q Pivoting back to the email, Part I of
19 Exhibit 170, Blake Fulenwilder -- Fulenwider, excuse
20 me, is deputy commissioner at the time, correct?

21 A At this time, Blake was -- well, it says
22 deputy -- he was the Medicaid chief at this time.

23 Q Okay.

24 A He was basically in Lynnette's position.
25 And we were organized a little differently, too. He

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1 was also a deputy commissioner.

2 Q I want to focus your attention on Question
3 No. 6: "How does your agency monitor availability
4 and access to care?"

5 Do you see that question?

6 A Yes.

7 Q Do you have any changes or additions to
8 the response in this document?

9 A My section, I don't monitor availability
10 and access to care, so I'm not somebody who would
11 answer this. I don't have any changes because I
12 don't know this subject.

13 Q You don't have -- you don't know any
14 additional information about this than what's
15 provided in this document?

16 A Correct. But also I can't verify whether
17 it's correct or incorrect. So I want to be clear
18 about that.

19 Q Understood.

20 I want to direct your attention now to No.
21 5, which reads: "What is your state's Medicaid
22 agency's responsibility to determine if children are
23 receiving the services they need?"

24 Do you have any additions or corrections
25 to the response provided to that question?

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1 A No.

2 Q I'd like to direct you to the fourth
3 question posed, which reads: "In what types of
4 behavioral health services does your state
5 experience a shortage of providers?"

6 Do you have any additions or corrections
7 to the response provided to this question?

8 A This has dramatically changed in relation
9 to autism spectrum disorder, where we now have a
10 therapy program. Probably one of the most robust
11 states in the nation of having ASD therapists now.

12 Q Any other changes since this was drafted
13 --

14 A No.

15 Q -- to your knowledge?

16 A No.

17 Q I'd like to direct your attention to the
18 third question, which reads: "How does your state
19 determine whether the provider network is sufficient
20 to meet your members' needs? What metrics do you
21 use determine adequacy of the provider network?"

22 Mr. Dowd, do you have any additions or
23 corrections to the response provided to this query?

24 A No. Again, I don't, I don't know this
25 question. So, no, I don't have anything different

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1 to say.

2 Q And who would you direct these questions
3 to at DCH now?

4 A The quality unit. Or the CMO portion
5 would have to go to CMO provider -- I mean CMO
6 oversight group in Catherine Ivy's old unit.

7 Q The first page of the document references
8 the inner -- Interagency Directors Team, or IDT.

9 Are you familiar with IDT?

10 A I am.

11 Q Are you a member of IDT?

12 A No.

13 Q Have you ever been a member of IDT?

14 A I've attended but I'm not a member.

15 Q Are you a regular attendee of IDT
16 meetings?

17 A No.

18 Q How often are you attending IDT meetings?

19 A I haven't been in several years.

20 Q And for what reason were you joining IDT
21 meetings when you were?

22 A There were some specific policy questions
23 they had for me related to ASD therapy, as I
24 remember. So that would have been 2018.

25 Q Are you familiar with Georgia's State

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1 System of Care Plan?

2 A I know it is a thing but I'm not familiar
3 with it. I couldn't speak intelligently to it at
4 all.

5 Q Are you aware of whether anyone at DCH has
6 ongoing involvement in implementing Georgia's System
7 of Care State Plan?

8 A It would fall in Catherine's shop. I
9 don't know who specifically there would spearhead
10 it, but it would be in Catherine's shop. Most
11 likely Jamie Cremer.

12 Q Most likely Jamie Cremer?

13 A Uh-huh. Yes.

14 Q Thank you.

15 I'm going to stop sharing this document.

16 I'm going to now ask you a series of
17 questions about your review of data. The first is
18 whether you received and reviewed any data from Care
19 Management Organizations relating to utilization of
20 children's behavioral health services?

21 A No.

22 Q Does anyone on your staff do that?

23 A Not that I'm aware of, no.

24 Q Would you expect individuals who work in
25 the section previously led by Catherine Ivy to

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1 perform that function?

2 A Yes.

3 Q Do you review or receive data relating to
4 the number of youth who receive community behavioral
5 health services in Georgia?

6 A No.

7 Q Would you likewise expect staff in the
8 office previously led by Catherine Ivy to perform
9 that function?

10 A If it was specific to CMO, they may or may
11 not review just raw numbers of how many kids get
12 services.

13 Q I understand. So their review would be
14 specific to --

15 A Contract --

16 Q -- CMO enrollment beneficiaries?

17 A Correct. Sorry. I apologize for
18 interrupting you.

19 It would be according to contract
20 measurements.

21 Q Based on the metrics established in the
22 contract between DCH and the CMOs; is that correct?

23 A Correct.

24 Q Are you aware of any review or analysis of
25 data relating to the number of youth receiving

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1 community behavioral health services through the
2 CMOs outside of what's required by that contract?

3 A No.

4 Q Are you aware of any DCH staff receiving
5 or reviewing data relating to outcomes for youth who
6 receive community behavioral health services in
7 Georgia?

8 A So let me say we have looked at PRTF data,
9 but I don't -- when you say community behavioral
10 health, I'm thinking of the community behavioral
11 health and rehab package, and I don't know of
12 anyone, no, who has been reviewing that data,
13 outside of the contractual measures.

14 Q Is it fair to say that any analysis of the
15 number of Medicaid enrolled providers of community
16 behavioral health services for children would be
17 performed by the Enrollment and Eligibility section,
18 which you identified earlier?

19 A I don't, I don't know who does that.
20 Quality -- it probably isn't provider enrollment.
21 It's probably quality or as it relates to the CMOs,
22 the CMO units -- I mean the CMO unit that used to be
23 under Catherine Ivy.

24 Q Thank you.

25 Is there any analysis, to your knowledge,

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1 by DCH staff of the number of direct care providers
2 trained in evidence-based practices in Georgia?

3 A Not that I'm aware of.

4 Q And if any unit within DCH would have
5 knowledge with respect to training of direct care
6 providers in evidence-based providers, who would you
7 expect that to be?

8 A Catherine's unit.

9 Q You mentioned some review of data relating
10 to PRTFs. Does that include analysis of the number
11 of students admitted to PRTFs?

12 A No.

13 Q And let me rephrase.

14 Does that include data showing the number
15 of children admitted to PRTFs?

16 A Well, only children can be submitted --
17 permitted to PRTFs. It's a service under 21.

18 Q Right. But the question is whether
19 there's any analysis of how many individuals are
20 admitted, say, on an annual basis to PRTFs?

21 A Yes.

22 Q Who is doing that analysis?

23 A Several of us within the unit. The Data
24 and Analytics Unit, Daphane's unit, Catherine's
25 unit, myself. Mario Ellis, the chief of staff.

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1 Shawn Walker.

2 Several of us have been looking at that
3 information, including the Commissioner.

4 Q For what -- I'm sorry.

5 Including the Commissioner of DCH?

6 A Yes.

7 Q For what purpose have you all been looking
8 at this data relating to PRTF utilization?

9 A Process improvement.

10 Q What do you mean by process improvement?

11 A I mean process improvement, where we can
12 make changes to better the service delivery for the
13 members and the providers.

14 Q Can you give an example of a specific
15 change made toward the end of process improvement in
16 the arena of PRTFs?

17 A Yes. We looked at standardizing some
18 forms in the PA process.

19 Q PA standards for?

20 A Prior authorization.

21 Q And have you in fact standardized those
22 forms?

23 A Yes. We've standardized some forms for
24 PRTF, introduction --

25 Q Have you -- I'm sorry, I didn't mean to

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1 interrupt you.

2 A No worries.

3 Q Has DCH implemented any other process
4 improvements with respect to PRTFs that you can
5 recall?

6 A Well, we just did -- we have a pending
7 rate -- a rather large rate increase associated to a
8 cost report for the PRTFs.

9 We've also done some -- we've done site
10 visits to all the PRTFs to look at their service
11 delivery and how they're doing, taking their
12 suggestions as well as part of review.

13 Q What -- what informed this focus within
14 DCH on process improvement for the PRTFs?

15 A General complaints from the PRTFs, from --
16 difficulty placing children who present at ERs and
17 other service areas, mainly.

18 Q Does your review of data with respect to
19 the PRTFs include tracking how many youth were
20 enrolled in GNETS prior to their placement in a
21 PRTF?

22 A No.

23 Q So sitting here today, do you have any
24 knowledge regarding whether a child enrolled in
25 GNETS has been placed in a PRTF?

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1 A No.

2 Q To your knowledge, does anyone at DCH
3 review any data with respect to failure of providers
4 to bill Medicaid for Medicaid reimbursable services?

5 I can try again, if that would be helpful.

6 A Are you saying that people who didn't bill
7 us, are we looking at whether or not they should
8 have billed us?

9 Q Just to give you some context, what I'm
10 asking about is whether Medicaid reimbursable
11 services are being fully billed per DCH's rules
12 rather than relying on other types of funding, like
13 grants? Is there any analysis being performed in
14 connection with that?

15 A Not that I'm aware of, not out of my shop.

16 Q And I want to try to make this as concrete
17 as possible.

18 Are you familiar with the Apex program?

19 A I was briefed on the Apex program after
20 this, after we heard about this lawsuit. I think
21 Wendy sat down with me and went through a
22 presentation, may have been me and Catherine both,
23 but I have no knowledge of the Apex program. I mean
24 I couldn't speak to any part of it at this point.
25 That was several years ago, too.

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1 Q Okay.

2 A And I didn't know about it before this
3 lawsuit.

4 Q Understood.

5 So you learned about the Apex program as a
6 result of this lawsuit?

7 A Correct.

8 Q Do you have any understanding of how the
9 Apex program is financed?

10 A None.

11 Q Do you know whether providers enrolled in
12 Apex bill Medicaid for services that they deliver?

13 A I don't know.

14 Q Is there anyone at DCH who you would
15 expect to have more knowledge about the Apex
16 program?

17 A If anyone, it would be Jamie Cremer.

18 Q I'd like to ask you some questions
19 specific to the autism spectrum disorder therapy
20 service that we discussed earlier.

21 Give me one second and I'll pull up the
22 documents.

23 A Okay.

24 (WHEREUPON, Plaintiff's Exhibit-171 was
25 marked for identification.)

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1 BY MR. HOLKINS:

2 Q I've just published what I'm introducing
3 as Exhibit 171.

4 For the record this is GA00387001.

5 The first page of this document identifies
6 it as an informational guide relating to Autism
7 Spectrum Disorder Services and Supports, identified
8 Breanna Kelly of the Division of Developmental
9 Disabilities at DBHDD. It's dated September 7,
10 2018.

11 Mr. Dowd, do you know Breanna Kelly?

12 A No.

13 Q I'd like to give you a second to review
14 the document. My next question for you will be
15 whether you've seen it before.

16 (Witness reviews exhibit.)

17 A Okay, I've reviewed it.

18 Q Thank you. So I will take control back,
19 at the top of the document.

20 My question is, have you seen this before
21 today?

22 A No, but many of the slides are just pulled
23 from slides that we've used before. So I've seen
24 the slides but not this document put together as
25 such.

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1 Q Understood.

2 So this was drawn from presentations
3 developed by DCH?

4 A DCH and DBHDD and DPH in collaboration,
5 yes.

6 Q So Pages 5 through 9 of the document
7 describe the various roles of DPH, which is the
8 Department of Public Health, DBHDD, and DCH.

9 My question is whether the description of
10 the roles served by each of those entities is
11 accurate today?

12 A The role for DCH is.

13 Scroll back to the Public Health one.

14 Yes, this is still something that they're
15 still trying to increase early screening and
16 identification. So, yes, that would be accurate.

17 Q And for DBHDD on Page 6, is this text
18 accurate?

19 A It's evolved since then. So they do have
20 at home crisis services available now. For ASD
21 children, the crisis home is open.

22 Q The crisis home is open? Is that what you
23 said?

24 A Yes.

25 Q Can you describe what that is?

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1 A It's a home for children with ASD in
2 crisis for stabilization.

3 Q Could you describe a bit the kinds of
4 services that are provided in that setting?

5 A You have ASD therapy. It's an inpatient
6 facility. So it could be a comprehensive array of
7 services.

8 Q Do you know how many beds there are in
9 this in-home facility?

10 A No. I don't know if it's 10 or not.

11 Q Where is this located in Georgia?

12 A Gwinnett.

13 Q Do you have an understanding of what the
14 average length of stay is at this facility?

15 A I do not.

16 Q Is there anyone in DCH who has a
17 coordination role with respect to this crisis
18 facility, in-home crisis facility?

19 A Well, this is a DBHDD monitored service,
20 not a DCH monitored service.

21 Q I understand.

22 A Okay.

23 Q I'm asking whether --

24 A We would, we would be informed of it as
25 part of our normal CYA meetings, like what's going

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1 on with the crisis beds or if there was some crisis
2 bed issue related to COVID or otherwise. It is a
3 standing agenda point on our CYA meetings, and
4 there's several people at DCH who attend those
5 meetings.

6 The rest of this is correct. I don't
7 think any of it has changed.

8 Q And that's specifically Pages 5 through 9
9 of this PowerPoint?

10 A Correct.

11 Q Okay. Are you aware of an updated version
12 of a similar presentation developed by DCH?

13 A I'm not.

14 Q I want to go back, actually, and ask you
15 -- this is still Exhibit 171. Bear with me.

16 Page 14 describes, from what I understand,
17 a method for finding an enrolled provider of Autism
18 Spectrum Disorder Services through the GAMMIS
19 system. Is that accurate?

20 A Correct.

21 Q Is this still a feature available through
22 GAMMIS?

23 A Yes.

24 Q Is this the only way to identify enrolled
25 providers of Autism Spectrum Disorder Services?

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1 A The CMOs may have their own search
2 criteria. I don't know that. But for fee for
3 service, yes.

4 Q Who maintains this list of enrolled
5 providers on GAMMIS?

6 A Gainwell Technologies.

7 Q Is that a contractor?

8 A Yes.

9 Q Contractor of DCH?

10 A Yes.

11 Q And is their contract specifically to
12 maintain the GAMMIS system?

13 A Yes.

14 Q Thank you. You can put this aside.

15 MR. HOLKINS: So I have another line of
16 questioning. I think it will be 20 minutes at
17 most and then we can take a break?

18 Is that all right or would you guys like
19 to take a break now?

20 THE WITNESS: I'm fine.

21 MR. PICO PRATS: Fine.

22 BY MR. HOLKINS:

23 Q Mr. Dowd, when did you first become aware
24 of GNETS?

25 A I don't know the specific date, but it was

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1 with the recent lawsuit, when you all re-engaged the
2 recent lawsuit.

3 Q And how did you become aware of GNETS once
4 this litigation commenced?

5 A There was a meeting within DCH to discuss
6 that we were a part of this lawsuit.

7 Q What information was shared regarding how
8 DCH was a part of this lawsuit?

9 A It was just basics of what GNETS was and
10 there were some questions around a request for data.

11 Q Was there any other information shared
12 with respect to DCH's involvement in this
13 litigation?

14 A Not that I remember, no.

15 Q Do you currently have any duties with
16 respect to GNETS?

17 A No.

18 Q Have you ever had any duties with respect
19 to GNETS as an employee of DCH?

20 A No.

21 Q Have you ever had any duties with respect
22 to GNETS as an employee of DBHDD?

23 A No.

24 Q Have you ever had any duties with respect
25 to GNETS as an employee of DCFS?

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1 A No. DFCS, but no.

2 Q Thank you.

3 A As a former DFCS worker, I can't allow you
4 to switch those.

5 Q I appreciate that. I want the record to
6 be clear.

7 I'll just reask.

8 Did you have any duties as an employee of
9 DFCS with respect to GNETS?

10 A No.

11 Q Do you ever discuss GNETS as part of your
12 CYA meetings?

13 A No.

14 Q Are you familiar with Nakeba Rahming?

15 A No.

16 Q Have you ever heard the name Debbie Gay?

17 A No.

18 Q Do you know Vickie Cleveland?

19 A No.

20 Q Do you know Zelphine Smith-Dixon?

21 A No.

22 Q Do you know Clara Keith?

23 A No.

24 Q Have you ever visited the GNETS program?

25 A No.

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1 Q Have you ever corresponded with directors
2 of any individual GNETS program?

3 A Not that I'm aware of.

4 Q Does anyone in your office, to the best of
5 your knowledge, provide training or technical
6 assistance to GNETS staff?

7 A Not that I'm aware of, no.

8 Q Does anyone on your staff or at DCH
9 broadly do on-sight monitoring or observation of
10 GNETS facilities?

11 A Not that I'm aware of.

12 Q Have you ever received data or documents
13 showing referrals to and enrollment in GNETS,
14 including by school district or region?

15 A No.

16 Q Have you ever received data or documents
17 showing length of placement in GNETS by program or
18 facility?

19 A No.

20 Q Have you ever seen or received data or
21 documents showing availability of behavioral health
22 services through GNETS?

23 A No.

24 Q Have you ever seen data or documents
25 showing utilization of behavioral health services by

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1 students in GNETS?

2 A No.

3 Q Have you ever seen data or documents
4 regarding staffing at GNETS?

5 A No.

6 Q Do you know whether GNETS facilities can
7 enroll as Medicaid providers?

8 A I do not.

9 Q What roll, to your knowledge, does DCH
10 play in monitoring coordination between community
11 service providers and GNETS facilities?

12 A I don't overall.

13 Q Do you know whether DCH monitors whether
14 children being considered for enrollment in GNETS
15 are referred to community services?

16 A Can you say that one more time? That was
17 a lot.

18 Q I can. Do you know whether DCH monitors
19 whether children being considered for enrollment in
20 GNETS are referred for community-based services?

21 A We don't out of my unit, and I'm not aware
22 of it.

23 Q In any other unit?

24 A In any other unit, no.

25 Q To your knowledge, has DCH conducted any

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1 analysis of behavioral health service gaps that may
2 have contributed to unnecessary GNETS enrollments?

3 A I'm not aware of any study or analysis of
4 that.

5 MR. HOLKINS: Let's actually take just a
6 quick break if that will be all right.

7 I think 10 minutes would do the trick.
8 Just one more line.

9 THE VIDEOGRAPHER: Off record at 2:09.

10 (A recess was taken.)

11 THE VIDEOGRAPHER: Back on record at 2:17.

12 BY MR. HOLKINS:

13 Q Mr. Dowd, I was just asking you about your
14 duties with respect to the GNETS program.

15 Finishing up that line, are you aware of
16 any staff at DCH currently who have duties or
17 responsibilities with respect to the GNETS program?

18 A I am not aware of any staff that has
19 duties, including me or -- just I'm not aware of any
20 staff.

21 Q I want to shift gears and ask you a few
22 more questions about the Apex program, which we
23 briefly discussed before the break.

24 A Okay.

25 Q Based on the presentation that I believe

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1 you described receiving from Wendy Tiegreen, what is
2 your understanding of what the Apex program is?

3 A I honestly don't remember anything about
4 it. I remember I pulled up an email in relation to
5 this lawsuit when I heard I was being deposed and
6 was like, oh, Wendy did brief me on this, here's the
7 presentation, and there was a correspondence between
8 me and Catherine saying, I just had a long
9 presentation about this or something.

10 But I haven't revisited it. So I have no
11 memories of what it was.

12 Q So to the best of your understanding, what
13 is DCH's role with respect to the Apex program?

14 A I don't -- I honestly don't know. I don't
15 have any role myself with it, that I'm -- I don't
16 have any role with it.

17 Q Understood.

18 I believe you indicated that Jamie Cremer
19 would be the person at DCH in the best position to
20 have information relating to Apex?

21 A She's over the community behavioral health
22 program, so she is our lead in all things that's
23 behavioral health related.

24 Q Do you know if DCH had any role in shaping
25 the program goals for the Apex program?

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1 A I do not.

2 Q Do you know if DCH has had any role in
3 shaping outcome measures for Apex?

4 A I do not.

5 Q To your knowledge, has DCH had any role in
6 shaping data collection efforts in connection with
7 Apex?

8 A I don't know.

9 Q To your knowledge, has DCH had any role in
10 assessing regional disparities in access to
11 school-based behavioral health services under Apex?

12 A Not that I'm aware of, no.

13 Q To the best of your knowledge, has DCH
14 played any role in assessing the cost of sustaining
15 the Apex program?

16 A Not that I'm aware of.

17 Q Has DCH, to your knowledge, had any role
18 in assessing the cost of expanding the Apex program?

19 A Not that I'm aware of.

20 Q The presentation that you described being
21 given by Wendy Tiegreen relating to the Apex
22 program, was that presentation presented in writing?

23 A It was a PowerPoint.

24 Q So there was a document for the
25 presentation?

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1 A Yes.

2 Q And you have that document in your email;
3 is that correct?

4 A Yes.

5 Q And you reviewed it in preparation for
6 this deposition?

7 A No. I saw it was an attachment to an
8 email.

9 Q Understood.

10 A Yeah.

11 Q You saw that it was an attachment but you
12 didn't review the actual slides?

13 A I didn't open it and go through it, no.

14 Q To your knowledge, has DCH -- excuse me --
15 has DCH conducted any analysis of service
16 utilization data specific to the Apex program?

17 A Not that I'm aware of.

18 Q I'd like to show you another document.
19 Give me one second.

20 (WHEREUPON, Defendant's Exhibit-172 was
21 marked for identification.)

22 BY MR. HOLKINS:

23 Q Mr. Dowd, I've just published what I'm
24 introducing as Exhibit 172.

25 For the record, this is GA00756593.

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1 This is an email dated October 22, 2018,
2 from Shardae Bunche to Dante McKay. The subject:
3 Apex Provider.

4 Mr. Dowd, I'd like to give you a chance to
5 review the document and let me know when you've
6 finished.

7 (Witness reviews exhibit.)

8 A I've read it.

9 Q So this document was not addressed -- this
10 email was not addressed to you. It was addressed to
11 Dante McKay and a number of other employees of
12 DBHDD, specifically John Quesenberry and Wendy
13 Tiegreen.

14 First off, let me ask, are you familiar
15 with the individual named Shardae Bunche who sent
16 this email?

17 A Yes.

18 Q Am I pronouncing her name correctly?

19 A I believe so, yes.

20 Q I just wanted to make sure.

21 A I know it's Shardae.

22 Q Shardae?

23 A Yeah.

24 Q And what is your -- what is the extent of
25 your communication with Shardae Bunche?

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1 A She used to be -- I don't remember her --
2 yes, I do. She used to work for Wendy. So she --
3 she was the Medicaid and Health Systems manager. So
4 she was Wendy's kind of employee in the Medicaid
5 liaison coordination role.

6 Q To the best of your knowledge, is Ms.
7 Bunche still employed or working for Wendy Tiegreen
8 at DBHDD?

9 A She is not.

10 Q Do you know who is currently in the role
11 previously occupied by Ms. Bunche at DBHDD?

12 A I do not.

13 Q Ms. Bunche's email dated October 22nd,
14 2018 indicates that: "We met with DCH today to
15 discuss the APEX data, and the group decided to take
16 a sample of kids from one provider to research and
17 determine if there is a better way to pull this
18 information."

19 Do you see that text?

20 A Yes.

21 Q Do you have any knowledge with respect to
22 this sample review of kids receiving Apex services?

23 A No.

24 Q Do you know who from DCH participated in
25 this discussion?

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1 A I do not.

2 Q Who would you pose that question to at
3 DCH?

4 A Our DSS team.

5 Q Can you remind me what DSS stands for?

6 A Decision Support Solutions, Daphne's
7 section. If we were trying to pull data on a
8 specific sample of kids or specific provider, then
9 Jamie Cremer would be the policy person.

10 Q Why would that inquiry go to Decision
11 Support Solutions as opposed to Healthcare
12 Analytics?

13 A I think they're in the same section.

14 Q Okay. Thank you.

15 A Yeah. They're the same group, really.

16 Q Okay.

17 A And I'm probably using an old name, to be
18 honest with you. I'm probably using the name from
19 10 years ago. They probably rebranded themselves at
20 some point.

21 Q Okay. We can put this aside.

22 I'd like to show you another document.
23 Give me one second.

24 MR. HOLKINS: I've just published what I'm
25 introducing as Exhibit 173.

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1 (WHEREUPON, Plaintiff's Exhibit-173 was
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q For the record, this is GA04276792. It's
5 an email from Wendy Tiegreen to Melissa Sperbeck,
6 dated September 11, 2019.

7 Mr. Dowd, you are not a recipient of this
8 email. I would like to give you a chance to review
9 it before I ask you some questions. Please let me
10 know when you're finished.

11 A Okay.

12 (Witness reviews exhibit.)

13 A I've reviewed it.

14 Q The subject of the email is "Apex
15 Briefing." Correct?

16 A Correct.

17 Q Ms. Tiegreen writes in the second sentence
18 of her email: "While we feel like the CMOs and the
19 COE are quite engaged, it is difficult to know the
20 emerging roles of the DCH participants and
21 therefore, their interest level."

22 How would you describe the interest level
23 of DCH in the Apex program?

24 MR. PICO PRATS: Object to form as far as
25 he stated what role DCH has with Apex, which I

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1 believe he said was none.

2 BY MR. HOLKINS:

3 Q Is that your testimony, that DCH has no
4 role with respect to the Apex program?

5 A I can't speak to DCH as the whole. I can
6 say it's not within my unit.

7 I don't know -- I'm not sure what your
8 question is around interest level.

9 Q I'm asking you to respond to this
10 statement by Ms. Tiegreen about the difficulty
11 engaging DCH's interest level in Apex?

12 A You're missing part of the sentence,
13 right. You just skipped over the part where she
14 says, "to know the emerging roles of DCH
15 participants," and this was during a time when there
16 was shift and reorganization in the agency.

17 So I believe what she is saying is, given
18 who does what in agency, it's hard to know who we
19 should engage as far as their interest level.

20 That's my interpretation of that sentence.

21 Q Understood.

22 Now that we are several years past the
23 organization of DCH -- is that accurate?

24 A That is correct.

25 Q -- would you say you have clarity now as

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1 to the roles of DCH with respect to the Apex
2 program?

3 A I have clarity with my role to what the
4 Apex program is, and I don't have involvement in it.

5 Q And do you have any clarity as to DCH's
6 role as a whole with respect to the Apex program?

7 A I, I can only -- I mean I don't know what
8 DCH as a whole's role is. I know from my unit.

9 I don't know -- I don't have any knowledge
10 personally of another unit's role, and it would be
11 unfair for me to speak to that.

12 Q I just want to clarify for the record, the
13 last line of the first paragraph of this email sent
14 by Ms. Tiegreen -- and I'll read the whole thing to
15 make sure it's clear.

16 "As part of that conversation, Dante was
17 reminded at the Carter Center's recent periodic
18 convening on School-Based mental health services,"
19 in parentheses, "which Commissioner generally
20 attends and in her absence Dante was there," end
21 parentheses. "Blake and Dante had a side dialogue
22 in which Blake confessed to not knowing much about
23 the Apex initiative and therefore, Dante offered
24 time in the future to brief him."

25 My question to you is just, you understand

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1 Blake to be a reference to the, I believe, deputy
2 commissioner --

3 A Correct.

4 Q -- at DCH at the time?

5 A Yes, correct.

6 Q And what is -- what is his full name for
7 the record?

8 A Fulenwider.

9 Q Okay. We can put this aside.

10 Mr. Dowd, what is your role, if any, with
11 respect to strategic planning at DCH?

12 A I'm a subject matter expert in policy.

13 Q And as a subject matter in policy, what
14 are your contributions to the strategic plan for DCH
15 in that arena?

16 A People would ask me specific policy
17 questions and I would answer those specific policy
18 questions.

19 Q Are you aware of whether DCH has a formal
20 strategic plan for a set period of time describing
21 goals and initiatives?

22 A I am not aware of that.

23 Q Okay. I'd like to show you another
24 document. Give me a second.

25 (WHEREUPON, Defendant's Exhibit-174 was

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1 marked for identification.)

2 BY MR. HOLKINS:

3 Q Mr. Dowd, I've just published for your
4 review Part I of Exhibit 174.

5 For the record, this is GA00460601.

6 It's an email from Sandra Middlebrooks to
7 Catherine Ivy, dated January 8, 2020. It includes
8 several attachments. I will be showing you one of
9 the attachments.

10 We've already established Sandra
11 Middlebrooks' position.

12 I'd like to, unless you would like to
13 review this document, show you the attachment.

14 Would that be all right?

15 A Yes.

16 Q This is Part 2 of Exhibit 174. It's
17 identified as GA00460605. The cover page reads:
18 Georgia Department of Community Health, Strategic
19 Plan for Fiscal Years 2020-2023."

20 Mr. Dowd, have you ever seen this document
21 before?

22 A Not that I remember.

23 Q Do you know whether there are previous
24 versions of DCH's strategic plan?

25 A Sorry. I do not.

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1 Q To your recollection, have you ever made
2 contributions to the DCH strategic plan?

3 A Again, it's very likely that I was asked
4 questions but not in reference to, Brian, we want
5 you to contribute to the strategic plan, it's
6 strategic plan time.

7 That doesn't happen in my reality. It
8 just 300 to 500 questions a day about things.

9 Q Right. Just to make it clear for the
10 record, you weren't asked to contribute drafting in
11 connection with the strategic plan at DCH ever?

12 A Correct.

13 Q Do you know who at DCH does have
14 responsibility for drafting DCH's strategic plans?

15 A I do not.

16 Q Does it surprise you that DCH has a
17 strategic plan?

18 A No.

19 Q Why not?

20 A I mean because we do have goals and things
21 we're working on. I would expect our leadership to
22 have a strategic plan that then people under them
23 are directed by, like myself.

24 Q Does it surprise you that you've never
25 reviewed the strategic plan for the current fiscal

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1 years?

2 A No.

3 Q Why not?

4 A I'm sure I've reviewed parts of it, just
5 not in the context of strategic plan.

6 Q You -- just to make sure I understand your
7 testimony, you believe that you may have reviewed
8 specific pieces of the strategic plan but not the
9 strategic plan as a whole?

10 A Correct. Like from what I saw on the
11 second page, where it has an outline, there was our
12 mission statement. I know what our mission
13 statement is broadly because I have to say it at the
14 start of every presentation.

15 So those different pieces I'm sure that
16 I'm aware of.

17 As far as sitting down with this is our
18 strategic plan, no.

19 Q Sitting here today, do you know what the
20 strategic goals for Georgia are identified in the
21 strategic plan?

22 A No, I wouldn't be able to list them out
23 for you for what's in this plan. No.

24 Q Do you know what the results of the DCH
25 environmental scan were as produced in this report?

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1 A No.

2 Q I have just one more document to show you.
3 Give me one second and I'll pull it up.

4 MR. HOLKINS: I'm actually going to need
5 to take a five-minute break to track this
6 document down.

7 I apologize. We can go off the record,
8 please.

9 THE VIDEOGRAPHER: Off the record at 2:38.

10 (A recess was taken.)

11 THE VIDEOGRAPHER: Back on record at 2:40.

12 (WHEREUPON, Plaintiff's Exhibit-175 was
13 marked for identification.)

14 BY MR. HOLKINS:

15 Q So I'd like to now show you Exhibit 175.

16 For the record, this is a document
17 produced by the State of Georgia, United States in
18 this matter. The Bates number is GA00384390.

19 The title of the document identifies it as
20 meeting agenda and minutes for a meeting of the
21 Children, Young Adults and Families/DCH
22 Collaborative Meeting, dated January 14, 2019.

23 Mr. Dowd, I believe that this document
24 indicates -- first, let me ask, do you recall
25 participating in this meeting?

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1 And you're welcome to take a look at the
2 document if you like.

3 A I don't, but I usually attend this
4 meeting. It's from 2019, but I usually -- this is
5 one I usually attend.

6 So it would be very common for me to be in
7 this meeting.

8 Q Under Attendees, it indicates Brian Dowd
9 via phone, correct?

10 A Correct. But is this the agenda or the
11 summary of it?

12 Because it will always have my name there
13 and it will be checked when I attend.

14 Q Understood. So it's possible this could
15 have been an agenda --

16 A Right.

17 Q -- circulated prior to the meeting?

18 A Correct.

19 Q Okay. But you to regularly attend these
20 CYF meetings, correct?

21 A Yes. If I am in office, I attend these
22 meetings. Or even not in office. If I'm -- if it's
23 blocked out on my calendar, yes.

24 Q I want to direct you to something specific
25 in this document.

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1 On Page 3 of Exhibit 175, in the row
2 identified as ACER -- first off, what is ACER, to
3 your understanding?

4 A I don't attend ACER. It's a, it's a
5 collaborative meeting. It's another child specific
6 collaborative meeting.

7 Q An interagency meeting?

8 A Correct.

9 Q Which you do not participate in?

10 A Correct.

11 Q Do you know who from DCH participates in
12 the ACER collaborative meeting?

13 A In 2019, it would have been Catherine Ivy.

14 Q Do you know who participates in them now
15 with Catherine Ivy's departure?

16 A It will be Jamie Cremer.

17 Q Do you know what this reference is in the
18 ACER column to CMO ED Project, School-Based Mental
19 Health Services Data -- or CMO data? Excuse me.

20 Do you know what that reference is?

21 A No. That's two things I don't do.

22 Q And what are the two?

23 A ACER and CMO.

24 Q So you would expect -- let me ask, who
25 would you expect to have knowledge within DCH with

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1 respect to CMO data related to school-based mental
2 health services?

3 A The CMO unit.

4 Q Led previously by Catherine Ivy?

5 A Yes.

6 Q And would you ask questions about that
7 specifically to Jamie Cremer now?

8 A No. I would ask that to the CMO unit. So
9 Sandra Middlebrooks' old unit, which is now Marvis
10 Butler. Marvis Butler would have been in these
11 meetings, too, also from the CMO unit.

12 Q Do you know Marvis Butler's title?

13 A No idea. She's part of the CMO unit,
14 though.

15 Q Are you aware of any coordination between
16 DCH and the Georgia Department of Education with
17 respect to CMO data?

18 A No.

19 Q Mr. Dowd, what did you do to prepare for
20 this deposition?

21 A Nothing, really. I had a meeting with the
22 lawyers about general deposition principles.

23 Q And without revealing what was discussed
24 with your attorneys, with whom did you meet
25 specifically?

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1 A Paul and Javier.

2 Q Did you discuss --

3 A There wasn't anybody else there, was
4 there? Just them. No.

5 Q You can ask them but -- did you meet with
6 anyone else aside from your attorneys to discuss
7 your anticipated testimony in this deposition?

8 A No.

9 Q Did you discuss your anticipated testimony
10 with Lynnette Rhodes?

11 A No. Other than to say I'll be in a depo
12 on Thursday. And I may or may not have said it was
13 on GNETS. I'm not sure if I even said that. I said
14 don't try and get me on that day, I'll be in a
15 deposition all day.

16 Q To confirm, you did not review any
17 documents in preparation for this deposition either?

18 A No. I did one search, like I previously
19 said, of emails to just be like do I remember
20 anything about Apex or GNETS, and that Apex email
21 came up with the attachment.

22 Q And what happened when you searched for
23 GNETS?

24 A Nothing. Other than recent conversation
25 related to this deposition.

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1 Q And was that conversation with anyone
2 other than your attorneys?

3 A No.

4 MR. HOLKINS: So I'd like to take just a
5 moment to confer with co-counsel, a couple
6 minute break. We'll pop into the other room
7 and we can finish.

8 THE VIDEOGRAPHER: Off record at 2:46.

9 (A recess was taken.)

10 THE VIDEOGRAPHER: Back on record at 2:51.

11 MR. HOLKINS: Mr. Dowd, we do not have any
12 further questions for you at this time. Thank
13 you very much for your time and information you
14 provided.

15 Your counsel may have questions.

16 MR. PICO PRATS: I do not.

17 MR. HOLKINS: We're done. Thank you.

18 THE VIDEOGRAPHER: Off record at 2:51.

19 (Whereupon, the deposition concluded at
20 2:51 p.m.)
21
22
23
24
25

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C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript of BRIAN D. DOWD was taken down, as stated in the caption, and the questions and answers thereto were reduced by stenographic means under my direction;

That the foregoing Pages 1 through 187 represent a true and correct transcript of the evidence given upon said hearing;

And I further certify that I am not of kin or counsel to the parties in this case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of July, 2022.

Wanda L. Robinson

Wanda L. Robinson, CRR, CCR No. B-1973
My Commission Expires 10/11/2023

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D I S C L O S U R E

STATE OF GEORGIA) VIDEOTAPE DEPOSITION OF
FULTON COUNTY) BRIAN D. DOWD - 6/23/22
Pursuant to Article 10.B of the Rules and
Regulations of the Board of Court Reporting
of the Judicial Council of Georgia, I make the
following disclosure:

I am a Georgia certified court reporter.
I am here as a representative of Esquire Deposition
Solutions, LLC, and Esquire Deposition Solutions,
LLC was contacted by the offices of U.S. Attorney's
Office to provide court reporter services for this
deposition. Esquire Deposition Solutions, LLC will
not be taking this deposition under any contract
that is prohibited by O.C.G.A. 9-11-28 (c).

Esquire Deposition Solutions, LLC has no
contract/agreement to provide court reporter
services with any party to the case, or any counsel
in the case, or any reporter or reporting agency
from whom a referral might have been made to cover
this deposition.

Esquire Deposition Solutions, LLC will
charge the usual and customary rates to all parties
in the case, and a financial discount will not be
given to any party to this litigation.



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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me. Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

Signature of Deponent

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this _____ day of _____, 2022, and executed the above certificate in my presence.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

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